HIRING ON WITH THE CIA **RONALD RADOSH**

THE NATION

FEBRUARY 8, 1975 *50 cents*

Carl Cohen
RACE AND THE CONSTITUTION
The DeFunis Case
THE LEGAL, MORAL AND SOCIAL ARGUMENT—FOR AND AGAINST—PREFERENTIAL TREATMENT

Casing the Democrats II
FRED HARRIS STARTS FROM SCRATCH
Peter Barnes

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LETTERS

reason enough

Paris, France

Reed Whittemore's "The Soviets' Problem—Or Is it Ours?" [*The Nation*, Dec. 14], is a sensitive, clear-minded unmasking of the myths spread by *Time-Newsweek* about Soviet intellectual life. . . .

Nonetheless, in his "Freudian" analysis of Soviet anti-American sentiments (the West as the hated "capitalist father"; modernist art as the desired "mother"), Whittemore falls prey to the very misperceptions he has been describing. Like most Americans, he can't grasp the simple historical basis for Russian fears of the West. But it was, after all, "the West" (including 10,000 U.S. Marines) which intervened militarily on the Menshevik side in 1921; "the West" which, in the form of Axis invaders, razed every city between Brest and Moscow and took 20 *million* to 25 *million* Soviet lives (even as the American economy boomed); and, finally, "the West" which has kept Russia encircled with nuclear weapons in Turkey, Germany and the Pacific. . . . As Whittemore says, "Soviet defensiveness is hard for an American to understand"—indeed, very hard, as he himself demonstrates, for few Americans have any concept of the war experience still within the memory of many Russians.

Gene H. Bell
Fondation des Etats-Unis

up for murder

New York City

Thank you for the editorial entitled "Purchased Testimony?" [Jan. 11] on James Grant, T.J. Reddy and Charles Parker, sentenced to long terms (twenty-five years in Grant's case) on the testimony of criminals paid by Mr. Mardian. As you said, probably not a person in a thousand has heard of this case. Too true.

Too many persons in prisons are not heard of. There is another case in the South, this time Alabama, in which nine men, members of a group called Inmates for Action, are to be tried on charges of murder and conspiracy. . . . The men have counsel but no money and no publicity outside Alabama. The whole world should be watching. . . .

Money is desperately needed. There is a Committee for Prisoner Support, P.O. Box 955, Birmingham, Ala.

Ruth Goldberg

'clear distance ahead'

Stockton, Calif.

Re Harry Maurer's "The Independent Truckers: Organizing the 'Gypsies'" [*The Nation*, Jan. 11]: Let's hope that he has space in his forthcoming book to explain that the reason why "trucks are geared to run most efficiently at higher speeds" (than 55 miles per hour) is that the truckers order their tractors with custom gearboxes intended to cruise at speeds in violation of the pre-emergency speed limits in most states. This in the knowledge that braking systems on most rigs cannot stop them safely "within the assured clear distance ahead" at even 50 miles per hour—something which can be accomplished with the car operated by the most inept "Sunday driver."

Joe Lennon

Farrell biography

I am writing a life of James T. Farrell and will appreciate receiving biographical information of any kind about him. Letters, or copies of letters, to and from Mr. Farrell will be promptly acknowledged and returned. *Edgar M. Branch*
4810 Bonham Road
Oxford, Ohio 45056

EDITORIALS

For Lack of a Policy

Secretary Kissinger has now launched a bid for public support as he tries, in the face of ever increasing Congressional limitations and restrictions, to gain a larger measure of "flexibility" for the conduct of foreign policy. He feels that flexibility and secrecy are essential if he is to carry on sensitive negotiations in which timing is so important. He also feels that he commands superior sources of information. On the other hand, Congress, with a strong infusion of new blood, is in no mood to give him a blank check in Vietnam or Chile or Turkey or anywhere else. Nor should it. On the surface, the Secretary has a case of sorts, in that specific restrictions are not the best Congressional approaches to the role of intelligent watchdog over foreign affairs. After all, the Executive is responsible for the conduct of foreign policy.

But the developing controversy reflects not so much a quarrel over foreign policy as the fact that we have no foreign policy. It may be that Mr. Kissinger has a policy hidden up his sleeve, but an undisclosed policy is hard to decipher. Since he insists on handling all the key issues himself and will not delegate responsibility, he rushes from conference to conference and spends so much time negotiating that he has none left to formulate a policy, even if he had the inclination. He has a passion for secrecy. Despite frequent "briefings" of individual members of Congress, he does not feel that he should make bold to tell them what it is he hopes to accomplish. Former Gov. Linwood Holton resigned after a year as Kissinger's Congressional liaison, in part at least because he did not always know what he needed to know to keep Congress properly informed of State Department initiatives and actions. Nor is it a secret that Kissinger and Defense Secretary Schlesinger have certain differences; disputes at that level of authority usually indicate the absence of accepted policy objectives.

The fact is that under five successive Presidents the chief thrust of U.S. policy has been to "contain" communism—largely by maintaining dominant military power, sustaining a global network of bases, and lavishing open-ended support on unpopular regimes that do our bidding. The pursuit of this policy despite radically changed conditions accounts for such misadventures as the Turkish-Greek-Cypriot mess. Writing in *The New York Times* (January 27), James Markham quotes a ranking Western diplomat stationed in Saigon as saying that U.S. policy there is at the moment to have no policy. An American diplomat is quoted as saying our policy is one of "aid and prayer."

What are American objectives in Cambodia where battle casualties have now topped 600,000? What is U.S. policy at the U.N.? We are told that it is to get that body "back to the Charter," but that may not be possible in view of the frequency with which the Charter has been bypassed at our insistence. Is it possible to seek the goals of détente while continuing to wage the cold war? Can we continue to object to the presence of a single Communist in governments in which the Communist Party represents a sizable section of the electorate? As a sign of the times,

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Columbia University has just announced that its Research Institute on Communist Affairs—a product of the cold war—has been renamed the Research Institute on International Change, a belated but needed improvement. Policy cannot be defined in negative terms. Macy's and Gimbel's assuredly compete, but if they were to adopt a policy of "containing" each other, both would eventually go bankrupt.

Containment was a delightful policy for politicians of both parties, since it made possible a safe bipartisan "consensus" and thus invested our diplomacy with continuity. But foreign policy never stopped at the water's edge, and never will or should. The war in Vietnam was financed largely by Europe's willingness to accept American dollars—President Johnson did not dare propose a pay-as-you-go policy—with consequent economic distortions that continue to plague us. It is all very well to say that foreign relations should not be manipulated for domestic political advantage, but in the absence of a declared policy that has gained public acceptance there will be sharp disputes over what the policy should be and endless quarreling over its tactics.

Kissinger has said of the difficulty of arms limitation talks that "both sides have to convince their own military establishments of the benefits of restraint," but his diplomacy is based squarely on the outmoded concept of power politics and the deployment of force and its use, if necessary. Yet food may, in today's world, be a more potent instrument than weaponry. Throughout the cold war, U.S. policy has been based primarily on military considerations, with the inevitable result that the military have had too much to say about foreign affairs. As David T. Edwards of the University of Texas pointed out in an article in *The Washington Post* last year, "if . . . we wish to curtail the role of the military and of its viewpoint, we must consciously decide to curtail the role of resort to military force in our foreign policy. And this Kissinger has been utterly unwilling even to consider." The Secretary of State knows full well that granting a few millions in military aid to the junta in Chile cannot be justified on military grounds, but he insists that he must have that much of a carrot in order to induce the Chilean military to do his bidding. But that is not a policy: it is a short-term tactic dictated by the absence of sound long-term goals.

What is needed, therefore, is a debate on what American foreign policy should be in the last quarter of this century, rather than a continuing acrimonious quarrel over specific amendments to aid bills and similar skirmishes which simply postpone the debate on fundamentals. The cold war may not have ended, but it has surely changed. Yet American policy remains mired deep in the rigid assumptions of containment. In pragmatic terms, the policy of containment has not enhanced our security; Communist regimes control more of the earth's surface than they did in 1946, and American prestige has steadily declined from the high point it attained after World War II. Clinging to policy assumptions that are no longer valid —and probably never were—can lead only to the collapse of that policy. The emerging quarrel over the conduct of foreign affairs should not be permitted to blind us to the fact that in that area we have at the moment no policy at all.

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Oil and Congress

For years major American oil companies have been able to get the American public to finance solutions to their problems. Now, after a long internship, it appears that the independent segment of the industry has caught on to the wondrous simplicity of the game.

Late last November the Senate adopted a bill which would make American taxpayers the backers of up to $2 billion in loans to the refinery construction projects of independent oil companies. Under the proposed law, dubbed the "National Independent Refinery Development Act of 1974," the federal government could guarantee up to 75 per cent of the costs of any single refinery project, and banks which feared that untried independent refiners might prove horrible risks could relax in the knowledge that their money would be coming back, with interest—if not from the oilmen, then from the U.S. Treasury.

Not a single Senator objected to the bill, but for a while, at least, we will be spared the outrage of seeing it on the books. Congress adjourned before the measure could get a vote in the House. Whether or not the bill reappears in the new Congress, though, its success in the Senate is indicative of the bizarre directions in which the national political process can be led in service of the so-called energy crisis and its accompanying myths.

These myths have always pleaded the case of whatever oilmen have wanted to do, and they have remained potent despite changing national trends which show them to be patently false. For example, the promise of cheaper and more abundant fuel stocks for consumers in refinery areas is a myth which has effectively overridden the reluctance of states and localities to permit refinery projects. And although desperate New Jersey motorists staged gun battles last winter in the shadow of massive refineries to improve their place in gasoline lines, this myth has proven hardy.

A related myth—the one which is trotted out to justify the National Independent Refinery Development Act—holds that there is an oil refining gap so serious that the resources of all good patriots everywhere are required to fill it. Yet *Business Week* reported last November 9 a growing glut of oil refinery capacity. With a national petroleum consumption rate that has leveled off at 17.2 million barrels per day, the United States is served by refineries having a total processing capacity of 19.4 million barrels a day. The domestic capacity is 14.4 million barrels a day, and another 5 million barrels come from Caribbean and Latin American refineries serving American markets.

Such figures underscore what the oil industry has come to admit, however tacitly. In the last three months more than a half-dozen refinery construction and expansion projects—involving several majors and independents—have been postponed or canceled. Refiners claim that tightness of money and uncertainty over forthcoming federal energy policies have contributed to the widespread retrenchment. But they have also had their eyes on the statistics which show burgeoning refining capacity and tapering demand. Oil companies are not stupid. There is so little need for new refineries that even the pledge of public funds probably won't be enough to get them built.

Now if someone will just tell the U.S. Congress.

MYRON W. LEVIN

The Scoop We Need

While no doubt there is enough hidden malfeasance involving the government and those on its payroll to keep investigative reporters busy for decades, it sometimes seems that sensational exposure is the single goal of the country's news media. This has been particularly evident in the latest round of the journalism of nondisclosure: the story of the FBI's files on members of Congress.

Now that J. Edgar Hoover is dead, there is no shortage of once silent but now vocally outraged sources to attack him. He deserves it. But this big scoop isn't a scoop at all. While exploiting souped-up rewrites of decades-old stories, the national press has ignored the underlying story that really matters.

Although as early as the 1920s reports were circulating about Hoover and his massive Capitol Hill files, the first thorough study of the situation came out in 1950, when Max Lowenthal published *The Federal Bureau of Investigation.* One of the book's chapters was "The Bureau Investigates the Legislature." It was all there. The book and its revelations were widely commented upon by both journalists and politicians, including members of Congress. Nothing was done about it.

That was twenty-five years ago, and the younger Representatives, Senators and reporters may be forgiven for not being familiar with Lowenthal's work. But the same can't be said for their apparent ignorance of Fred J. Cook's *The FBI Nobody Knows,* published in 1964. It too has a full chapter on Congressional dossiers. Again, there was a good deal of comment, but nothing was done.

The story that should have been reported in the past few weeks—and that still needs reporting—is why this knowledge was not acted upon, why Hoover was not stopped. One way to find out might be to send a simple questionnaire to senior Congressmen asking, "Did you know the FBI kept files on at least some of your colleagues?" and "If you did, what did you do about it?"

Hoover was a paper tiger. He was a bluffer, a tough bureaucratic infighter, and a dangerous man to take on—alone. But all indications are that he was also a scared man, obsessively protective of his bureaucratic empire and personally insecure. Ten Senators, perhaps fewer, could have pushed him to the wall on the files issue at any time in his career. But they didn't. And that's the story. Every member of Congress should have been asked, not "What do you think of it?"—a puff question sure to elicit a platitude—but "If you were there and did nothing, why didn't you?" Those most self-righteously indignant about the files might be asked the question first. And they should all be asked: "Now, what are you going to do about it?"

Many might say they're waiting for the report of the special committee the Senate recently named to investigate the FBI, the CIA and other federal police and intelligence organizations. At the least, this committee promises a more dispassionate investigation than the incestuous look-see being conducted in private by the old national security hand, Nelson Rockefeller, and his committee. We hope the Senate group follows the recommendation of Sen. Alan Cranston (D., Calif.) that "the emphasis throughout should be on sharing the maximum amount of information with the public." And we hope

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that the Congressional reporters will center their digging on real news, not on gimmick stories that "reveal" what the committee or one of its witnesses is planning to make public the following day. As Cranston has said, "There are some powerful incentives for a cover-up. Individuals and agencies involved in wrongdoing or questionable practices must be identified." Reporters can help insure that such identifications are made. So can rigorous, under-oath questioning by Senators and staff. Blanket denials must not be accepted, as they have been for too long.

It is scarcely news today that Hoover not only collected material about the personal life of Martin Luther King Jr., but had shown it about, along with tapes (of bugs) of Coretta King's reaction. Why didn't that lead to an investigation? There's a malfeasance that needs reporting.

The Color of Money

Harry Bridges and the members of the International Longshoremen's and Warehousemen's Union have earned the country's thanks for disclosing what's behind the super-profits of the sugar industry—and for doing so in clear and simple terms.

Even though sugar prices have slid a bit in recent weeks—possibly just temporarily—they are still, as Bridges told the toothless Council on Wage and Price Stability, "unconscionable." Cost levels are more than a matter of simple supply and demand. Involved is a web of government and private connections that, as structured, has subsidized and perpetuates what seems to be the biggest steal in this season of price plunders.

The thrust of Bridges' comments was understandably self-protective. Don't blame the union's workers, he said. After-tax profits for the nation's largest beet sugar producer, Great Western United, jumped to $17.44 a share for the half-year ending November 30—up from 51¢ a share for the same six months a year ago.

These profits, Bridges said, were derived from two sources: "profiteering of the worst kind" and "grossly substandard wages and working conditions for unorganized domestic sugar workers." In 1974, while the sugar companies were indulging their sweet tooth for money and consumers were being ripped off in the supermarkets, a typical Louisiana sugar worker, according to *The Wall Street Journal*, was trying to support a family of six on $3,116—an annual wage more than $2,000 below the government's official (and conservative) poverty level for farm families of that size.

Since labor costs absorb only a small fraction of sugar company revenues, Bridges said, these workers could be paid directly without further boosts of product cost. "In fact," he said, "mainland growers can well afford to both increase wages and cut prices. Such are the extraordinary economics of the sugar industry."

Bridges did not hide the fact that his union has shared in the sugar companies' prosperity. Bonuses were part of its most recent contract, and he may have felt himself under some pressure to forestall criticism of his union. Yet seldom has a union leader or a labor group spoken out as have Bridges and the ILWU on this issue. Most, if by no means all, unions have chosen comfortable complicity and short-term gains over social activism and long-term credibility. They, and the entire union movement, have paid for this silent collaboration by engendering the widely held belief that the organized members of the American working class are partners with their bosses in gouging the public.

The industry's response to all of this is a combination of public relations puffery—"We're just making up for unfair lean years"—and bald-faced arrogance. Alexander and Baldwin, one of Hawaii's big five, has painted its sugar mill green—the color, a company executive joked, of money. Bridges' comments should be a spur to the conscience and outrage of Congress and of the Justice Department, which has announced (January 29) that an investigation of price-fixing in the industry is underway.

RECRUITING HISTORIANS

THE CIA IN THE JOB MARKET

RONALD RADOSH

William E. Colby's policy of building a more open CIA was evident at the annual conference of the American Historical Association, held at the Conrad Hilton Hotel in Chicago from December 27 to 30. At just the time when jobs are very hard to find in the universities, the CIA made its first public appearance before the AHA by scheduling interviews for those historians who might care to work for "the agency." In addition, the AHA presented a half-hour talk and question period by John F. Devlin, deputy director of political research at the CIA.

Devlin, who was introduced as part of the "scholarly side" of the agency, presented a talk that fitted in with what *New York Times* reporter David Binder (December 29) called the CIA's need "to take defensive steps by letting the public know a bit more about the workings of the agency." It also might be seen as an attempt, in the midst of revelations about the agency's covert domestic intelligence program, to resurrect the image of the CIA as a repository of intelligent liberalism in government; an agency tolerant of heretical views and more than willing to employ the services of liberal academics.

Ronald Radosh is an associate professor of history at Queensborough Community College and in the graduate faculty of the City University of New York. His Prophets on the Right: Profiles of Conservative Critics of American Globalism *will be published by Simon & Schuster in March.*

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Oliphant, Denver Post

"Oh, Him? . . . Well, Heck, We Only Turn Him Loose When It's Necessary!"

Devlin's presentation, and his answers to critical questions, offered insights into the assumptions that lead many (Devlin noted that a few hundred historians had answered the ad placed by the CIA in the AHA's employment bulletin) to offer the agency their services. Devlin himself in no way resembled the thugs one thinks of as being employed by the agency's operational branch. A mild-mannered, soft-spoken man, with a trim white beard, he looks like a civilized academic. Originally a historian specializing in colonial America, Devlin was the perfect agency recruiter in the job-starved historical profession.

Unlike the agents who engage in foreign or domestic dirty tricks, the agency's management is scholarly and genteel. The CIA needs trained specialists, persons skilled in the techniques of historical research that are taught in graduate schools, to carry out scholarly investigations of problem areas designated by the State Department, the executive branch of government, or the upper management of the agency itself. Devlin was looking for historians to work on what he called "the entire problem of the Middle East"; the attitude of Western European nations toward politics in the age of détente, especially the scope of the entire European Left. When pressed as to what he had specifically in mind, Devlin answered that the agency needed thorough study of the politics of, the policies of and the different currents of opinion within the Italian Communist party. It also needed people to predict what would happen in Iran after the Shah's death. Devlin insisted that the work prepared for the historians was proper, scholarly and distinct from the covert action one associates with the agency. At this point, I interjected that the academic studies to be carried out would be legwork for the policies to be put into action by the operational branch. A study of the Chilean legislature in 1969, for example, might well have allowed the agency to determine which legislators to bribe to vote against Allende in the 1970 elections—a job for which the CIA doled out $350,000. Similar acquaintance with the politics of Italian communism could serve a like task should a covert program be put into practice if Italy shifts left.

In case any of the historians present had moral qualms about the uses to which their work would be put, Devlin assured them that their research "begins and ends with a piece of paper." They were pure scholars engaging in traditional research. At one point, a member of the audience expressed interest in employment with the agency, but feared that what he called his Marxist approach to history might make him ineligible. Devlin quickly assured him that a Marxist had a place in the CIA. As if to convince the audience that the agency held modern views, Devlin added that the CIA would employ individuals who engaged in "a moderate amount of social smoking of marijuana," although the use of hard drugs would be a bar to employment.

The majority of the fifty or more historians attending Devlin's talk, and perhaps the few hundred who had applied to the agency for a job, saw things Devlin's way. Questions centered about possibilities of promotion, opportunities to work in the field rather than exclusively in Washington, the CIA's pension program, etc. Devlin sought to make it appear that the agency was simply another arm of the government, and that individuals should seek to work within it to make policy more intelligent. "If the allegations about the CIA's covert domestic programs are true," Devlin answered to my hostile questioning—(he referred to Seymour Hersh's original story as an allegation), he found the operation "reprehensible" and emphasized that he knew nothing of it. Presumably his answer was intended to prove that one can work in the modern CIA, even hold an executive position, and yet dissociate oneself from the work carried out by the agency as a whole. Devlin did not, however, say anything critical about the CIA's continuing effort to subvert foreign governments.

To many who heard him, Devlin was himself a renewed proof of the CIA's liberalism. It has been empha-

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sized for a long time, by commentators as diverse in point of view as R. Harris Smith and Richard J. Barnet, that the CIA is indeed managed by scholarly liberals. It was sophisticated enough to finance the work of Socialist leader Norman Thomas in Latin America during the 1960s, as well as to subsidize "liberal" magazines like *Encounter*. Reactionary members of Congress would never have approved funds for either project, but the CIA understood that subsidizing the anti-Communist Left was often the best way to gain its ends. Thus it backed European Social Democrats, and anti-Communist "third forces" like Mboya in Kenya and Bosch in Latin America. Norman Thomas' Institute for International Relations was funded from 1960 on through a CIA conduit, the J.M. Kaplan Foundation. "I am ashamed that we swallowed this CIA business," Thomas said, but "what we did was good work and no one tried to tell us what to do."

Devlin's avowed liberalism was meant to demonstrate to historians who believe in the tenets of scholarly objectivity that their professed values could be maintained when they undertook a career with the agency. The only pitfall, he thought, was that "most of the products of your research will remain in-house publications." Here Devlin was less than candid. He failed to remind his audience that the CIA's previous attempts at domestic propaganda had included the attempt to influence elite opinion by subsidizing articles written by its personnel, whose status with the agency was never announced. Thus historians employed by the CIA might find their work published under a CIA subsidy, although their affiliation would remain secret. Examples are George Carver's 1966 *Foreign Affairs* article on the "faceless Vietcong," or the secret publication of CIA studies by the old Frederick J. Praeger firm.

The assembled job-hunting historians, should any of them gain a job with the agency, would then become in essence scholar-spies. The research they undertook would be dictated and defined by the agency, and put to such use as the CIA saw fit. Such research is meant to serve the goals of covert action. This point was made by Richard A. Bissell, former CIA deputy director of plans, in his talk before a Council of Foreign Relations study group in January 1968. (Bissell's comments are printed in full in the Marchetti-Marks book on the CIA.) Secret collection of information, he stressed, was meant to gain "timely knowledge" of "tactical significance," and served the purpose of supporting covert activities meant to subvert foreign governments. Bissell concluded that "the tasks of intelligence collection and political action overlap to the point of being almost indistinguishable."

The historians listening to Devlin did not seem to grasp this truth. They showed Devlin the greatest respect and appreciation for coming to the AHA. When I tried to raise points in rebuttal to Devlin, the group became angry and suggested that I shut up. As I stood to argue that the AHA should be ashamed to have offered its facilities to the CIA recruitment officer, and that even in a job crisis there are *some* jobs historians should not consider, a fellow historian ran down the aisle, brandishing an umbrella whose pointed end he thrust at my face. As I ducked, I thought to myself that perhaps this young man understood the proper relationship between the CIA's theory and practice, and that he had passed the first part of his job interview. □

THE DeFUNIS CASE

RACE & THE CONSTITUTION

CARL COHEN

The equal protection of the laws seems the plainest, most comprehensive requirement of justice. That equals must be treated equally by the law, all will allow. But who are equals before the law? Distinctions based upon employment, office, wealth and a host of other considerations certainly do (and should) justify differential treatment. But what about race? Religion? National origin? Sex? Do these also sometimes justify differential treatment?

The common conviction that such categories have no bearing upon the just application of law is dramatized by the blindfold that the Goddess of Justice wears while balancing her scales. In this country that conviction reached its apogee with *Brown* v. *Board of Education* in 1954, becoming thereafter almost liberal dogma. It is freshly applied in recent guidelines of the Department of Health, Education, and Welfare to eliminate sex discrimination in colleges and universities. Recipients of federal funds, those rules announce, shall not "administer or operate any test or other criterion for admission which adversely affects any person on the basis of sex, unless use of such test is shown to predict validly successful completion of the education program or activity in question." Splendid. Or is it? That depends upon whose ox is gored.

The ideal of blindfolded equal treatment, as applied to racial groups, encounters competing principles of compensatory justice. It is all very well to laud equality before the law; but when generations, or centuries, of discrimination and outright oppression based on race or ethnic origins have left minority groups in conditions of distressingly marked disadvantage, even-handed treatment cannot yield equal results. Affirmative action in pursuit of just outcomes, deliberate and concrete efforts to compensate for past wrongs, must be undertaken.

Carl Cohen is an active member of the American Civil Liberties Union, having served for several years as chairman of its Michigan affiliate, and being at present a member of its national board of directors. Mr. Cohen, who teaches philosophy at the University of Michigan, Ann Arbor, is the author of Democracy (*University of Georgia Press*) *and* Civil Disobedience (*Columbia University Press*).

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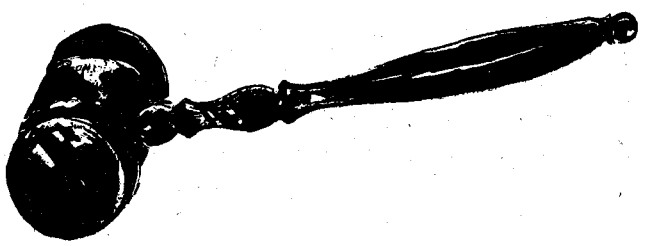
Affirmative action, not much in dispute as a generic notion, has many species. The arguments—moral, legal, sociological—for and against one or another of these species are many and tangled. My aim in what follows is to explore a single slice of these controversies: the preferential admission of members of minority groups to programs in higher education. The issues raised in it are delicate and important; they will certainly recur. When the U.S. Supreme Court held moot the case of *DeFunis* v. *Odegaard* (in April 1974), the unsigned majority opinion included this unmistakable invitation: "If the admissions procedures of the Law School remain unchanged, there is no reason to suppose that a subsequent case attacking those procedures will not come with relative speed to this Court, now that the Supreme Court of Washington has spoken." [40 L Ed 2d 170.] In a host of similar cases that invitation is being vigorously accepted.

Using the *DeFunis* case, I propose to explicate and evaluate the central arguments upon which resolution of these issues will probably depend. It is to be expected that such resolution will come through judicial interpretation of constitutional principle. In giving concrete meaning to venerable principles the courts—ultimately the Supreme Court—decide not simply what our Constitution requires but what it ought to be understood to require. In many matters, courts give clear moral guidance; judicial reasoning functions as moral reasoning.

Several related issues must be shorn from that of preferential admissions. Preferential employment practices raise like, but often differing, questions; affirmative action is equally essential in the sphere of housing, but assumes very different forms; quotas, strictly considered, are one variety of preferential treatment (whether applied to admissions or employment), but introduce additional questions about the propriety of numerical instruments; discrimination against women differs sufficiently from that against racial minorities to justify its separate treatment. I focus upon the deliberately preferential treatment of minority groups in admission to professional schools. *DeFunis* v. *Odegaard* is archetypal.



In March 1973, the state Supreme Court of Washington decided in favor of the University of Washington (Charles Odegaard then president) against Marco DeFunis, a white, male applicant to the university's Law School, who claimed that the system of admissions applied by that school, incorporating deliberate preference for members of minority groups, and resulting in his rejection, had denied him the equal protection of the laws. A lower court that had supported DeFunis was reversed; but its order obliging the university to admit him had remained in effect during the three years of ensuing litigation. It was DeFunis' impending graduation from that Law School in the spring of 1974 that gave grounds for the ultimate holding by the U.S. Supreme Court that the case was moot.

DeFunis' central contention was that the admitting procedures of the University of Washington Law School (hereafter, the Law School) applied a double standard—one measure for minority group members, another for the rest—in such a way as to violate that clause of the Fourteenth Amendment of the U.S. Constitution which guarantees to all persons "the equal protection of the laws." It was reasonable, he argued, for the Law School to make admissions judgments among competing applicants based upon evidence of many different sorts—academic and nonacademic, numerical and nonnumerical—so long as that evidence was in some way relevant to the program of study to which admission was sought. It was not reasonable or lawful, he claimed, for the measures used, whatever they were, to be applied in a systematically differential way to certain sets of persons for no other reason than that such persons were (or were not) members of racial or ethnic minority groups. The University of Washington did not dispute the fact that it gave preferential treatment to such groups in the fierce competition for the relatively few law school slots available each year. But such preference, based on race or national origin, DeFunis contended, is precisely what the equal protection of the laws precludes absolutely.

DeFunis lost, in a decision of the Supreme Court of Washington that stands as the most cogent and persuasive defense of preferential admissions extant. I propose to reconstruct the argument of that decision, to construct the most solid and plausible counterarguments, and to explain why one side of the argument fails.

The factual circumstances of DeFunis' complaint must first be set before us. The facts will differ in coming cases, perhaps critically; but the analysis of principles must have some empirical anchorage, and the procedures of the Washington Law School are in fact so much like those of many sister institutions as to warrant the belief that a just application of constitutional principles to this set of facts will provide useful precedent in judging others.

Marco DeFunis first applied to the Law School for the fall of 1970. Although a Washington resident with a very good undergraduate record (junior-senior grade point average of 3.71 of a possible 4.0), he was refused admission, but advised to apply again the following year. He enrolled in graduate school for that year and, while working full time for the Seattle Park Department, completed twenty-one credit hours of all A work. By the time of his second application in 1971, he had taken the Law School Admissions Test (LSAT) three times, with an average score of 582—his last score of 668 being in the top 7 per cent nationally. After being put on a waiting list, he was again denied admission. Knowing that many applicants with academic credentials inferior to his had been admitted, he concluded that the admissions process had discriminated against him because he did not belong to a minority group. To appraise that conclusion we must look very carefully, as did the Washington Supreme Court, at the actual admitting practice in that Law School. What was done?

The Committee on Admissions and Readmissions, con-

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sisting then of five faculty members and two students, faced the awesome task, in the spring of 1971, of selecting from the 1,601 applications received the persons to fill but 150 available seats. Knowing from experience that a good many of those admitted would in fact accept admission elsewhere, the committee sent out 275 letters of admittance; the freshman class eventually enrolled for the fall of 1971 contained 155 students.

The chief sorting instrument of the Admissions Committee was a mathematically determined Predicted First Year Average (PFYA), derived for each applicant by a formula in which both the junior-senior grade point average and the LSAT score were given appropriate weight. The numerical results were used, in general, as follows: applicants with PFYAs above 77 were summarily accepted; those with PFYAs under 74.5 were summarily rejected; applicants with PFYAs between 74.5 and 77.0 were re-examined, some being accepted, some not. However, this system was not applied to everyone. All minority applicants (Philippine-Americans, Chicano-Americans, black Americans and American Indians, by careful university definition) were considered separately. PFYA was also used for minority group students, but they were not judged on the same standards as the rest; they competed only against one another. For how many slots? That was not fixed in advance, but the university reported its objective as "proportionate representation" of minority groups in the entering class. The numerical outcome was this: of the 275 applicants sent letters of admittance, forty-four were minority group members—exactly 16 per cent. Of the forty-four minority admissions, thirty-six had PFYA scores lower than that of DeFunis. Some twenty-nine other unsuccessful applicants were roughly in his case, having PFYA scores higher than most minority admissions. All of those admitted, whether of minority group or not, were deemed qualified by the committee. Among the minority admissions, as one of the judges later wrote (and all parties agreed), "were some whose college grades and aptitude scores were so low that, had they not been minority students, their applications would have been summarily denied." [Wash. 507 P2d 1191.]

Now DeFunis had a PFYA of 76.23. It is not certain, but it is probable, that had there been no system of preferential admission, he would have been admitted. It is certain that, had there been no such system, some of the rejected white applicants with PFYA scores in the high-middle range would have been admitted. DeFunis was a young man with superior abilities and a fine academic record. Some of the minority admissions were, all agree, of uncertain ability and mediocre academic record. There is the nub of the complaint: DeFunis was not accepted by the Law School chiefly, and probably only, because of a preference accorded to others simply on the basis of their race or ethnic origin.*

This complaint is plausible upon its face; required now is an appraisal in depth. This is obviously not a case of racial discrimination in the standard, exploitative mold. If there is racial discrimination here its evident and honorable objective is not to maintain inequality but to overcome an inequality that has been deeply rooted. The Law School had devised a deliberately compensatory instrument, honestly aimed at justice over the long run. Of course, long-term justice was sought with equal fervor by DeFunis and his defenders, who did not deny the historical facts of racial oppression or contest the need for some compensatory action. The two sides concurred in calling for affirmative action, deliberate conduct aimed at uprooting a long-ensconced pattern of racial injustice.

In pursuit of this objective what instruments are constitutionally permissible? That is the key question here. This controversy is not between good guys and bad guys, but between very sophisticated parties who differ about what, in the effort to achieve a very pressing and very difficult end, we may rightly use as means.

The Supreme Court of Washington (hereafter, the Court) dealt sensitively and deeply with this question. Its argument went to the heart of the matter and developed, in three steps, a powerful defense of the Law School. These steps take the form of answers to the following three questions:

(*1*) Are classifications on the basis of race, for purposes of school admission and the like, *per se* unconstitutional? Does "the equal protection of the laws" require that an admissions committee be "color blind"? If the answer were yes the matter would be settled. But if race can, under some circumstances, be considered as one factor in an admissions policy, there are further questions to resolve.

(*2*) Suppose that consideration of race is under some circumstances permissible. What standard must then be applied to actual cases to determine whether, in a particular instance, the racial classification used is constitutional?

(*3*) Suppose that consideration of race is under some circumstances permissible, and that the standard of its constitutional application is known. Has the Law School in the *DeFunis* case (and any school in any similar case) met that standard in its policy and practice?

To the first of these questions the Court's answer, carefully argued, was negative. Consideration of race is not, always and in itself, unconstitutional. It is well established, to be sure, that the equal protection clause of the Fourteenth Amendment prohibits the operation of racially segregated public schools. Racial segregation in schools, the Supreme Court held in the landmark *Brown* decision of 1954, stigmatizes the minority group and injures its members in ways not easily (if ever) undone. It is not constitutionally permissible. But, said the Washington Court in 1973, the *Brown* decision did not warrant the

* Closely similar systems of preferential admission are widespread. The Stanford University Law School, according to its former Dean, Bayless Manning, grants admission "substantially automatically" to any minority applicant (*1*) whose grade point average (GPA) is not below the lowest GPA of regular non-minority students in the previous year's entering class; (*2*) whose Law School Admissions Test (LSAT) score is not more than 50 points lower than the lowest LSAT of regular non-minority students in the previous entering class; and (*3*) whose Law Quotient Index (LQI) is not more than 50 points below the lowest LQI of regular non-minority students in the previous year. (The LQI combines GPA, LSAT and a factor based on the law school records of previous students from the same undergraduate institution.) This policy, says Dean Manning, is "strongly preferential in favor of minority applicants, since it will lead to admission of many minority students whose formal academic credentials are below those of hundreds, even thousands, of non-minority applicants to Stanford who will be rejected."

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conclusion that all racial classifications are, *per se*, unconstitutional. The leading principle of that decision was that racial classifications are unconstitutional when they are invidious, when they stigmatize a racial group with a stamp of inferiority. But a preferential admissions policy, like that of the Law School, does not stigmatize the minority and is not invidious because its aim is not to separate the races but to bring them together.

The principles of the *Brown* case do not settle the matter. Even if, by that decision, only invidious racial classifications are ruled out, it remains to ask whether there are any contexts in which non-invidious racial classifications are ruled in. In fact there are, said the Court. The U.S. Supreme Court has held that there are circumstances in which doing justice demands not that we ignore race, but that we carefully attend to it. When, for example, a school board, charged with the responsibility of designing and implementing policy, proposes to eliminate a long-standing pattern of racial discrimination with a "freedom-of-choice" enrollment plan that does not work, that board will be compelled to come forward with a better scheme that does take steps adequate to abolish its past racially segregated system. "The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work *now*." [*Green* v. *County School Board*, 391 U.S. 437 (1968).]

To fulfill such responsibilities, said the Supreme Court in a subsequent case, school authorities need not be "color blind" when the consideration of race is essential to produce an appropriately mixed student body. "Awareness of the racial composition of the whole school system is likely to be a useful starting point in shaping a remedy to correct past constitutional violations. . . . Just as the race of students must be considered in determining whether a constitutional violation has occurred, so also must race be considered in formulating a remedy." [*Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S.45 (1971).]

Such decisions led the Washington Court to conclude, in the *DeFunis* case, that the preferential admissions policy of the Law School, aimed at insuring a "reasonable representation" of minority persons in the student body, was not invidious. The Constitution, said the Court, "is color conscious to prevent the perpetuation of discrimination and to undo the effects of past segregation." [Wash. 507 P2d 1180.]

The first great hurdle then is jumped: in *some* cases, the Court concludes, racial classification is constitutionally permissible.

The second question concerns the standard to be applied in such cases. Racial classifications are manifestly suspect. What is the test for their proper use, where it is alleged that they have a proper use? The normal test of a questionable classification, one alleged to violate the equal protection clause, is whether that classification "is reasonably related to a legitimate public purpose." But where race is the basis of the classification the Court concluded that a much heavier burden of justification must be imposed. The U.S. Supreme Court, in 1967, was very firm on this point: ". . . at the very least, the Equal Protection Clause demands that racial classifications . . . be subjected to 'the most rigid scrutiny.' " [*Loving* v. *Virginia* 388 U.S. 10.] The Washington Court, seeking to obey that injunction with care, set this standard for the constitutionality of racial classifications: "The burden is upon the Law School to show that its consideration of race in admitting students is necessary to the accomplishment of a compelling state interest."

The third question is whether the Law School, in the *DeFunis* case, had met this standard. This, in turn, raised two subordinate questions:

(*1*) Are the interests of the state here compelling? The Court's answer: Yes. The underrepresentation of minorities in law schools, and hence in the legal profession, is gross. Considering this imbalance—and in view of the tax support of this Law School by all, including minority groups, on an equal basis—the Court held that the elimination of racial imbalance in public legal education is indeed compelling.

One possible objection to this conclusion is the claim that the need could be compelling only where the pattern of discrimination was *de jure*, the deliberate result of institutional practice—but that in the instant case the pattern was no more than *de facto*, the product of historical circumstances. This objection is ruled out by the Court, reasoning that, whatever the cause of past racial discrimination in this sphere, the state has an "overriding interest" in eradicating its continuing effects. That interest is not reduced an iota because, in the past, a particular institution may have been neutral in the matter. We look to the remedy of social evil, said the Court in effect, not to the apportionment of blame. Had the admissions policy in question been ordered by some court, the past behavior of the institution would be relevant in determining what plan of desegregation is justifiably enforced. But the Washington plan was not the outcome of such an order; it was developed voluntarily by the Law School as part of its autonomous effort to correct a historic injustice. At issue here, the Court emphasized, is not whether the preferential admissions policy under examination is required, but only whether it is permissible.

"Finally," the Court concludes, "the shortage of minority attorneys—and, consequently, of minority prosecutors, judges and public officials—constitutes an undeniably compelling state interest."

(*2*) Is the consideration of race, in admitting students, necessary for the accomplishment of this end? The Court's answer: Yes. The evil to be corrected is the racial imbalance in the Law School student body. That imbalance can be put right only, the Court affirms, by actually providing legal education to the minority groups previously denied it.

It is commonly argued that the proper way to do this is to improve elementary and secondary education for minority students to the point that equal representation of minorities in professional schools may be secured through direct competition with non-minority students, on the basis of the same criteria. But, at least to date, this simply has not worked. It is two decades since the *Brown* decision; the time for racial balance is now. Since the Court concludes that the preferential admissions policy is the only one that "promises realistically to work *now*," no policy that is less restrictive will adequately serve the compelling governmental interest at stake.

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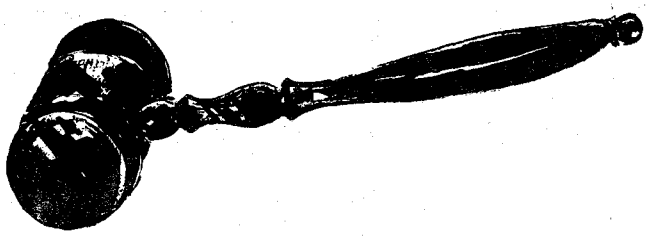
The core argument of the Washington Supreme Court is thus complete: "We conclude that defendants have shown the necessity of the racial classification herein to the accomplishment of an overriding state interest, and have thus sustained the heavy burden imposed upon them under the equal protection provision of the Fourteenth Amendment."

Two other matters discussed by the Court, tangential to the main issue, I touch upon very briefly. First, in defining minority group applicants, did the Law School's exclusion of some important minorities (e.g., Asian-Americans) render its classification improper because invalidly drawn? The Court's answer: No. Since a significant number of Asian-Americans, and other minorities, could be admitted on the same basis as general applicants, it was held that they need not be treated as minority applicants here—the purpose of this category being the identification of the groups most in need of help. A classification is validly drawn if it includes all and only those persons who are similarly situated with respect to the purpose of the law. The purpose of this classification was "to give special consideration to those racial minority groups which are underrepresented in the law schools and legal profession, and which cannot secure proportionate representation if strictly subjected" to the standard criteria for admission. It did that, said the Court, and was therefore validly drawn.

Second. Much controversy in the *DeFunis* case arose over the operating procedures of this particular Law School, the qualifications of the student members of its Admissions Committee, and so on. DeFunis claimed (and some justices strongly agreed) that the entire process in the Law School, apart from the matter of racial classification, was arbitrary and capricious. He was not sustained in this. The issue, although a fascinating sidelight on university practice, was not central to the main thrust of the decision.



That decision could have gone the other way. A minority of the Washington Supreme Court, led by its Chief Justice, expressed dissenting judgment firmly. Justice William Douglas of the U.S. Supreme Court (concurring with Justices Brennan, Marshall and White that the case was not moot), separately attacked the Law School's efforts to effect proportional representation based on race or ethnicity. But a full response to the Washington Court, developed with careful attention to the logic of its argument, has been missing. I try now to supply that want.

Each of the three steps of that argument must be questioned. Preferential treatment for some racial or ethnic groups is what the words of the U.S. Constitution, given their plainest meaning, seem to prohibit. A great burden clearly falls upon those who defend such preference. If the chain constructed by the Court to carry that burden breaks at any link, the case falls. In fact, upon careful scrutiny—and in spite of the most laudable aims of the Law School and the Court—not one, but all three of the links in their argument crumble.

First. Are classifications on the basis of race, for purposes of law school admission and the like, *per se* unconstitutional? The correct answer is yes. Indeed, the Fourteenth Amendment was deliberately formulated to prohibit precisely such classifications. The Constitution is and always must be, in that sense, color blind. It cannot be, from time to time and at the discretion of certain agencies or administrators, color conscious in order to become color blind at some future date. The principle that a person's race is simply not relevant in the application of the laws is a treasured one. If we are prepared to sacrifice that principle now and then, in an attempt to achieve some very pressing and very honorable objective, we will have given up its force as constitutional principle. No doubt intentions here are of the best, but so, often, are the intentions of those who would from time to time sacrifice other constitutional principles for the attainment of other very worthy ends. The enforcement of justice, the redistribution of wealth, the very protection of the nation, might all be more conveniently, more efficiently, even more effectively accomplished if, from time to time, we winked at the Constitution and did what, as we will be told with honest fervor, is of absolutely overriding importance. In this way is the Congressional authority to declare war conveniently ignored; in this way is the constitutional protection of our persons, houses, papers and effects from unreasonable search and seizure effectively (of course only temporarily) by-passed. In this way, in sum, constitutional government, fragile network of principles that it is, comes apart.

But, some will reply, those other objectives—national security, protection against crime, etc.—are only claimed to be compelling; racial justice, so long deliberately denied, really is so. Of course. And every person and every group has, at some time, objectives that are, to its complete and profound conviction, so utterly compelling that nothing must be allowed to stand in the way of their accomplishment.* But every such party must yield in turn to the restrictions of constitutional government; if those in authority do not enforce these restrictions, the Constitution is but paper. A constitution, ideally, is not an expression of particular social ends; rather, it identifies very general common purposes and lays down principles according to which the many specific ends of the body politic may be decided upon and pursued. Its most critical provisions will be those which absolutely preclude certain means. Thus to say that a protection afforded citizens is "constitutional" is at least to affirm that it will be respected, come what may. The specific constitutional provision that each citizen is entitled to equal protection of the laws is assurance that, no matter how vital the government alleges its interest to be, or how laudable the objective of those who would temporarily suspend

* Justice Douglas, in his dissenting opinion in *DeFunis* writes: "The argument is that a 'compelling' state interest can justify the racial discrimination that is practiced here. . . . If discrimination based on race is constitutionally permissible when those who hold the reins can come up with 'compelling' reasons to justify it, then constitutional guarantees acquire an accordionlike quality." [40 L Ed 2d 184.]

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that principle, it will stand. The highest obligation to respect it is owed by public institutions and government agencies.*

Preferential admission systems present instances of this sometimes agonizing tension between important ends and impermissible means. Hence the persuasiveness of the argument on both sides. In facing dilemmas of this kind long experience has taught the supremacy of the procedural principle. With societies, as with individuals, the use of means in themselves corrupt tends to corrupt the user, and to infect the result. So it is with wiretapping, with censorship, with torture. So it is with discriminatory preference by racial grouping for racial balance.

But this is racial classification, the Court insisted, not racial discrimination. The latter is indeed ruled out, said they, but the former is not; *Brown* and other powerful precedents forbid invidious racial classification, not all racial classification. This argument misses the central point—the sharpest bite of *Brown* and like cases—that in the distribution of benefits under the laws *all* racial classifications are necessarily invidious. Invidious distinctions are those tending to excite ill will, or envy, those likely to be viewed as unfair—and that is what racial classifications are likely to do and be when used as instrument for the apportionment of goods or opportunities.

Perhaps the Court would respond: Some such invidiousness is difficult to deny, but our main point is that the racial classifications condemned by *Brown* and succeeding cases are those that stigmatize one of the groups distinguished, stamping it with inferiority. But the change of phrase provides no rescue. To stigmatize is to brand, or label, generally with disgrace—and that is exactly what is done by racial classification in this context. Indeed, put to the service of preferential admissions such classification is doubly stigmatizing. It marks one racial group as formally to be handicapped, its members burdened specifically by virtue of race; for the majority applicant (as formerly for the minority) earned personal qualifications will not be enough. Persons in the other racial category are to be officially treated as though unable to compete for the good in question on an equal basis; by physical characteristic the minority applicant is marked as in need of special help. On both sides morale is subverted, accomplishments clouded. On the one side all carry the handicap, regardless of their past deeds or capacity to bear it; on the other, all are received with the supposition of inferiority, regardless of their personal attainments or hatred of condescension. For all, the stigmata are visually prominent and permanent.**

I conclude that the first and fundamental step of the Court's argument in defense of preferential admissions cannot be justly taken. Racial classifications, in the application of the laws, or in the distribution of benefits under the laws, are always invidious, always stigmatizing. That is why they are, *per se*, unconstitutional.

How account, then, for the recent school desegregation cases, *Green* and *Swann*, in which the U.S. Supreme Court recognized the need to attend to race for the sake of justice? That the Washington Court was most uncomfortable with its first premise, and troubled by the self-imposed obligation to defend it, is evident in its discussion of these cases. Badly needing some illustration of the reasonable use of race, but having only these as possible analogies, the Court made much of them, while carefully avoiding all mention of the fundamental difference between the remedies approved in them, and the policy at issue in *DeFunis*. It is true that in these school cases the courts attend to race and racial mix. But it is not true that such attention involves, or permits, the classification by race to determine the apportionment of benefits, which is what preferential admission entails. The very reverse, in fact: the desegregation cases have as their main thrust absolute equality of treatment, equality of benefit under the law. Clearly, if that equality has been systematically denied by a school board or other agency through the segregation of races, effective remedy must look to the desegregation of races, and that was done. But no racial classification for the application of laws is there even entertained. Indeed, it is just the use of such classification that, through such cases, we are having now to undo. To use the need of that sort of remedy as a justification for the introduction of another disorder of the very kind that remedy was designed to cure is reasoning both convoluted and dangerous.*

Those who say, with the first Justice Harlan, "Our Constitution is color blind, and neither knows nor tolerates classes among citizens" do not suppose that the courts may not attend to the special character of past wrongs done. Rather, the principle they are emphasizing is cautionary: in all circumstances courts must scrupulously avoid and prohibit the use of a person's race as, in itself, a qualification (or a disqualification) for anything that persons of another race are, for that racial reason disqualified (or qualified) for. The critical distinction between attention to race in the enforcement of equal treatment, and the use of race in the fashioning of unequal treatment, was blurred by the Washington Court, but only by straining.

Furthermore, even in the school desegregation cases in

* The only previous suspension of this constitutional protection was a national moral disaster. To meet the alleged danger of sabotage and espionage during the Second World War, American citizens of Japanese descent were peremptorily rounded up, moved, and excluded from large sections of our West Coast. The Supreme Court was pained, but found this roundup and detention justified by "pressing public necessity." (*Korematsu* v. *United States*, 323 U.S. 216, 1944.) Never before or since has the use of race in applying constitutional protection been expressly approved by our highest Court.

** Justice Douglas writes in his dissenting opinion: "A segregated admission process creates suggestions of stigma and caste no less than a segregated classroom, and in the end it may produce that result despite its contrary intentions. . . . [T]hat Blacks or Browns cannot make it on their individual merit . . . is a stamp of inferiority that a state is not permitted to place on any lawyer." [40 L Ed 2d 184.]

* Congress, especially through Title VII of the Civil Rights Act of 1964, has also sought to undo some of the results of racial categorizing. When, under this title, discriminatory preference for minority races was attempted and tested in court, a unanimous Supreme Court laid down the principle that job qualification standards must be performance-related, and that that may cut against certain types of irrelevant testing, just as it cuts against certain types of irrelevant grouping. "Discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed. What is required by Congress is the removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification." [*Griggs* v. *Duke Power Co.*, 401 U.S. 430 (1971).]

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which a deliberate racial injustice is identified for which specific remedy is sought, the attention to racial mix in providing that remedy is very delicately supervised by the courts. There is all the difference in the world between a specific remedy thus controlled (as in the *Swann* case) and a general license to professional schools, or universities, or other institutions to ignore the constitutional prohibition of racial discrimination, and to engage in "reasonable" discriminatory activity to correct the effects of past social injustice as they consider such measures needful or convenient. To permit such practice is to abandon constitutional principle entirely.

Preferential admission procedures certainly do result in the discriminatory apportionment of benefits on the basis of race or ethnicity. When any resource is in short supply, and some by virtue of their race are given more of it, others by virtue of their race get less. If that resource be seats in a law school, procedures that assure preference to certain racial groups in allotting those seats necessarily produce a correlative denial of access to those not in the preferred categories. This plain consequence should not be overlooked. Whether the numbers be fixed or flexible; whether "quotas" be established and called "benign"; whether they be measured by percentages or absolute quantities; whether the objective be "reasonable proportionality" or "appropriate representation"—the setting of benefit floors for some groups in this context inescapably entails benefit ceilings for other groups.

By fuzzing the numbers and softening the names some manage to hide this conclusion from themselves. The majority of the Washington Court, to their credit, did not do that. Although eager to minimize the discriminatory character of the instrument, they recognized candidly its inevitable result. They wrote: "The minority admissions policy is certainly not benign with respect to non-minority students who are displaced by it." Preference by race is malign; its malignity has no clearer or more fitting name than racism. Widespread in American universities, this well-meant racism will indeed be found, upon reflection, to deny the equal protection of the laws.

Second. Suppose (what I do not grant) that the Court was correct in its first step; suppose that racial classifications are in some cases constitutional, and that the school desegregation cases are illustrations of the exceptional cases. Still, to determine whether in any other specific instance (such as that of DeFunis) racial classification is constitutional, some standard for judgment is required. Recognizing that racial categories are intrinsically suspect, the Washington Court concluded that any user of a racial classification in admissions is under an obligation to show "that its consideration of race in admitting students is necessary to the accomplishment of a compelling state interest."

Would this be the correct test? My answer is no. Although rightly higher than the normal standard (that of being reasonably related to a legitimate public purpose), the Court's standard is far from high enough. In addition to the need for the classification, and the compelling character of the interests served by it, "the individual interests affected by the classification," in the words of the U.S. Supreme Court, must be considered. Where the basis for the classification is known to be "inherently suspect," and the individual interest affected is a fundamental constitutional right, the standard for review must be, said the highest Court, "exacting." [*Dunn* v. *Blumstein*, 405 U.S. 338 (1972).] Now it will be a critical part of any exacting test that that classification not have the consequence of penalizing any person simply by virtue of his race. The importance of this restriction cannot be overemphasized. If it be argued that racial categories are in some contexts relevant to the application of the laws; if the school desegregation cases discussed above are viewed (incorrectly, I submit) as examples in which the just distribution of benefit relies upon racial classification, it is at least certain that such classification is not used in those cases to the prejudice of anyone. No person, under those decisions, gets less than another because of his race. That, we rightly sense, is a critical factor in any consideration here of race. Whenever individuals are penalized solely because they manifest some adventitious characteristic wholly out of their control—their skin color, their national origin, or the like—the unfairness arouses strong indignation. Our viscera do not mislead us in this; any reasonable standard would certainly exclude such uses of racial classification.

If racial classifications are ever to be used, I conclude, they must pass a far more protective test than that invoked by the Court. The user of any racial classification must show that consideration of race is necessary to the accomplishment of a compelling state interest, *and* that such consideration does not result in adverse consequence to any person simply because of that person's race or ethnic membership. Now it has been demonstrated that one result of preferential policies is to deny to some persons, simply because of their race, what they in every other respect deserve and would receive, were they of the preferred skin color. It is therefore manifest that on this more protective standard no policy of preferential admission by race is acceptable.

Third. Suppose the first and second steps of the Court's argument allowed—that racial classifications are sometimes permissible, and that when they are it need be shown only that they are necessary for the accomplishment of a compelling state interest. Would a preferential admissions policy on the Washington Law School model pass that test? No, it would not.

What are the interests to be served by the policy, and which are compelling? Three large, separate interests are involved here, and they are of differing values.

The first is a general interest in the integration of law schools and the legal profession. Unless and until minorities have a fair and genuinely equal opportunity to prepare for the bar, they cannot function properly in many critical roles—that of judge, prosecutor, et al., as well as attorney—to which the law schools give the only entry. And it is obviously unjust for any racial group to be denied opportunity to serve in those roles. Moreover, as the Court pointed out, in this society lawyers have a specially important role in policy making as a consequence of their relatively high level of service in legislatures and other public bodies. The public policy that is molded in these bodies needs the input of the minorities

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universally concerned—for the sake of minorities and majorities alike. The social role of attorneys is such that their understanding of the needs and views of all slices of society is an important general concern.

Racial integration is indeed a deep and powerful interest. It is not, however, an interest compelling in the sense that, to serve it, any steps are justified. Integration does not, as an objective, justify racial discrimination believed useful in its achievement. Lawyers, judges and prosecutors of all colors and ethnic identities we do need; but we cannot afford to pay for improvement on that front by basing professional qualifications partly on skin color. A community is not justified in advancing its own general health by denying to some of its members constitutional protections that apply to all. It is because the classification of persons by irrelevant, physical properties is so generally odious that the courts are explicit in demanding that the interests served by such classification be literally compelling, overriding. Grave though the need for integration is, overriding in the sense required by the judicial test proposed it is not.

A second general interest urged by the advocates of preferential admissions policies is the achievement of numerical proportionality among the races in the legal (and other) professions. Much different from integration, this is a conception of racial balance which not only measures justice by counting numbers of minority group members in the professions or professional schools, but also finds any result unsatisfactory that does not manifest "reasonable proportionality" or "appropriate representation."

Much that needs to be said on this aspect of compensatory justice cannot be said here. On two levels, however, it quickly becomes clear that racial proportionality is not a compelling need. Numerical proportionality of races in the professions is most commonly defended on the ground that without it the interests of minority groups cannot be properly served. Surely this belief is mistaken if it incorporates the conviction that only black lawyers can serve black clients adequately, that Indians, when sick, are treated properly only by Indian physicians, or that white defendants cannot be fairly tried before black judges. The insistence that proper and conscientious fulfillment of professional function is dependent upon harmony of race or heritage between client and practitioner is not only destructive but incorrect. The record of professional services completely transcending differences of race, religion and national origin is long and honorable.

We agree (the rejoinder might begin) that much professional service crosses racial lines; but as a practical matter it cannot be denied that, without racial balance in the professional corps, it has proved impossible for racial minorities to obtain professional services in the quantity and quality needed. There is a confusion here. It is true that the legal and health needs of minority groups have not been fairly or adequately met, but it is far from clear that the remedy for that lies in racial proportionality. Differences in professional services are most closely tied to economic considerations, within as well as between races; proportionality does not even speak to that fundamental problem. Moreover, to defend forced proportionality on the basis of the professional needs of the minority is to assume, tacitly, that minority group lawyers will, in fact, devote themselves to ethnically exclusive practice. No doubt this will be true for many, but to expect that black professionals will practice only in the black community, or Mexican-Americans only in the Mexican-American community, is quite wrong. The parochialism implicit in that expectation exerts heavy and unfair pressure upon minority professionals.

Well then (the rejoinder might continue) is there not a residual need felt by minority group members for lawyers (and doctors, et al.) of the same race or cultural heritage who are sensitive to their special attitudes and circumstances, share their ethnic spirit, and who alone can make them comfortable? See where this argument takes us. If comfort, in this sense, really is good ground for official preference on the basis of race, it would be entirely appropriate for firms with chiefly minority clientele to discriminate openly against applicants from the ethnic majority in their hiring practices. "Our clients cannot be comfortable with white attorneys," they may say, "and good professional service to our clients requires their psychological confidence. That confidence is possible only with community of heritage." But racism is a two-way street. Depend upon it, that argument, so long used to justify racial discrimination against minority professionals, will be accepted with satisfaction by bigots on all sides.

Arguments of this kind for racial proportionality—some advanced even by the Washington Court—mistakenly suppose a unity and distinctness of interest shared by all and only the members of a racial category. They assume that the diversity among whites, or among blacks, or among Philippine-Americans, or whatever, is wholly submerged, outweighed by racial identification, and that therefore the professional needs of persons of a given race will be fully met only by one of the same race. With decent purpose we are urged to think with our blood.

More deeply, the call for proportionality is inspired by a strange vision of ideal society—one that is pervaded by ethnic identification. According to that ideal the numerical proportionality of races is a principal measure of distributive justice in virtually every sphere of social life. In schools, courts, professions, in business and in recreation, in all public and in much private activity attention to race is encouraged, even obliged. For some this ideal offers a promise of homogeneity that proves captivating; inferences now commonly drawn from it verge upon the absurd. It has been suggested, for example, that a legislature or a jury that does not manifest proportionality of race (or sex, or age) is without legitimate authority. Calls for appropriate numerical representation by various ethnic groups—Italian-Americans, black Americans, Catholic Americans—have already been heard. It is realistic to expect many more, because once this principle for the distribution of benefit appears operative each group is under some pressure to stake an early claim. The pressure is greater when it cannot be known in what fraction(s) the cake will be cut, so that restraint by any group may result in an ethnic apportionment on some continuum taking no account of that group whatever. There is practically no limit to the variety of categories (racial, national, sexual, etc.) from which such demands may come forth. Nor is there limit to the variety

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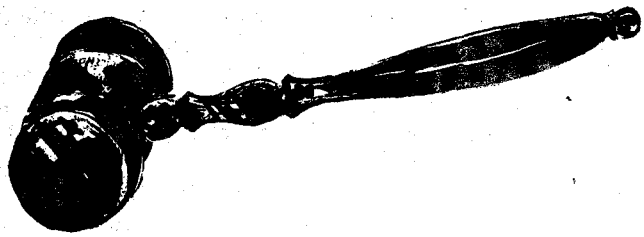
of public contexts to which such demands may be applied. All this is no longer speculation.

How seriously are such claims to be taken? That depends upon how seriously the premise of ethnic proportionality as ideal is received.* Its universal applicability will hardly be allowed. Yet it will be difficult to accept the ideal in some contexts while denying it in others that are strictly analogous. It will be difficult to defend the ideal in support of the claims of some ethnic groups while rejecting the coordinate claims of other groups.

The ideal of thorough ethnic proportionality, although impractical and tortuous, may be honestly pursued by some. Others, however inconsistently, may invoke it for some groups or some spheres, but not for other groups or spheres. Still others will reject the ideal. It is at least certain, I conclude, that the realization of such an ideal is not a compelling social need.**



There is a third general interest that the advocates of racially preferential policies aim to advance: *compensation.* That wrongful injuries earlier done be compensated for now, to the extent possible, is part of the demands of justice. How they should be compensated for no general principles can determine. Much depends upon the nature and gravity of the injury, upon the wants of the injured, and upon the circumstances at the time compensation is undertaken. To say that compensation for a past injury is required now is to call for an immediate process of tangible redress, suitable in form and substance. But that cannot tell us what precisely is to be done. Compensation is not a particular, describable end, like integration; it is at once more pressing and less measurable, an aim of justice having no certain form.

This compensatory interest is compelling, but no scheme of racial or ethnic preference can be necessary to serve it. Compensation being a form of redress, it is justifiable only as a response to specific wrongs done to specific persons. Preferential admissions policies, by giving favor to all members of certain racial or ethnic groups, cannot be appropriate remedies for the wrongs in question.

Specific past injuries may justify specific present efforts to make up for what was wrongly done. In that spirit it is fair that those who have suffered wrongful economic disadvantage, or wrongful denial of opportunity, now be assisted with affirmative action to help redress those wrongs. Thus in deciding upon admissions to professional schools it may be quite reasonable to take into consideration some past injuries—e.g., whether schooling appropriate to ability had been denied a particular applicant, whether the economic need to work while in school had resulted in another applicant's lessened performance there, etc. Concrete assistance to those so disadvantaged, special efforts to recruit such applicants for professional courses and to retain such students by supplying special needs having root in that earlier maltreatment, offend no reasonable sense of justice.

Responses in this compensatory spirit, however, cannot be tied to race or ethnicity; their being compensatory supposes that they will be devised with a view to the injuries suffered by particular applicants, whatever their surname or color. Of each individually it may be asked: Is there, in this case, a history of wrongfully imposed disadvantage so grave as to justify special treatment now?

At this point advocates of preferential systems may contend that I have missed the point. For the injury suffered by many (say they) is inextricably bound up with race, and hence the remedy must be so as well. That point, powerful in some contexts, is misapplied here. In the public schools of North Carolina, where the task was that of desegregating large numbers of equally qualified students, already enrolled in the system, who had long been sorted by race, a racially attentive remedy was in order. But this consideration cannot justify a remedy that is, as in *DeFunis*, intrinsically prejudicial. However ugly past uses of race have been, constitutional rights are now enjoyed by citizens entirely without regard to race. Hence no deprivation of such individual rights, based on race alone, may be tolerated. The equal protection clause is a safeguard not for categories of persons but for every citizen singly.

On this point the language of the U.S. Supreme Court is definitive: "The rights created by the first section of the Fourteenth Amendment are, by its terms, guaranteed to the individual. The rights established are personal rights. It is, therefore, no answer to these petitioners to say that the Court may also be induced to deny white persons rights of ownership and occupancy on grounds of race or color. Equal protection of the laws is not achieved through indiscriminate imposition of inequalities." [*Shelly* v. *Kraemer*, 344 U.S. 22.]

The tacit supposition that rights are possessed by racial groups has caused much confusion here. But the formulation of the Fourteenth Amendment, recognizing rights as pertaining only to individuals, is exact on this matter. No state shall "deny to any person within its jurisdiction the equal protection of the laws." Any single individual, denied some benefit to which he is otherwise

* Preliminary judgment on the premise of proportionality has been passed by the U.S. Supreme Court. It decided that the state of California has the right to ban picketing whose purpose—to compel the hiring of Negroes in proportion to Negro customers —was unlawful. "To deny to California the right to ban picketing in the circumstances of this case would mean that there could be no prohibition of the pressure of picketing to secure proportional employment on ancestral grounds of Hungarians in Cleveland, of Poles in Buffalo, of Germans in Milwaukee, of Portuguese in New Bedford, of Mexicans in San Antonio, of the numerous minority groups in New York, and so on through the whole gamut of racial and religious concentrations in various cities." [*Hughes* v. *Superior Court of California* 339 U.S. 464 (1950).] In effect, the Supreme Court here declared the unlawfulness of enforced racial proportionality.

** Justice Douglas writes in his dissent: "The state, however, may not proceed by racial classification to force strict population equivalencies for every group in every occupation, overriding individual preferences. The equal protection clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized. The purpose of the University of Washington cannot be to produce Black lawyers for Blacks, Polish lawyers for Poles, Jewish lawyers for Jews, Irish lawyers for the Irish. It should be to produce good lawyers for Americans. . . ." [40 L Ed 2d 183.]

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entitled, on the ground of his classification by race or ethnic origin, will have had his rights under that clause infringed. The social interest in compensating other persons who are members of other groups which have, in general, been very cruelly treated in the past, gives no justification for deliberate discrimination against this individual now.*

Many among our ethnic minorities have suffered grievous disadvantage simply because they were black or brown or yellow. But the degree of disadvantage suffered, and even the fact of it, varies from case to case. Some have suffered no more than many non-minority persons who have unjustly experienced severe economic hardship or family catastrophe. Since every early adversity cannot be weighed in the school admissions process, it is usually thought right to consider the great majority of applicants on an equal footing, without analysis of past disadvantage, when reviewing admission qualifications.

Some past injuries may be thought so cruel and damaging as to justify special consideration for professional school admission. But whether a particular person has been so injured is a question of fact, to be answered in each case separately. If special consideration is in order for those whose early lives were cramped by extreme poverty, the penurious Appalachian white, the oppressed Oriental-American from a Western state, the impoverished Finn from upper Michigan—these and all others who similarly qualify are entitled to that consideration.

This becomes complicated. If the complications grow excessive we may think it well to avoid the artificial inequities likely to flow from inadequate data, or flaws in the compensatory calculations, by refraining altogether from those calculations and again treating all applicants on the same footing. That would oblige reliance chiefly upon some roughly objective credentials—past academic records, examinations and the like—which we know, of course, yield results imperfect in other ways. Or we may think ourselves obliged, whatever the burden, to enter the thicket of compensatory calculations. But if we do so, it is clear that we must make these calculations for all applicants. What we weigh in the case of one we must weigh for all; whatever redress in the sphere of admissions is in order because of past injury is in order for every person who has suffered like injury, without regard to race or national origin.

What we may not do, constitutionally or morally, is announce: "You are black, you get plus points; you are yellow, you don't." An admissions committee must not classify by race or ethnicity and assume, for special consideration, cultural and/or economic deprivation for all of one category and for none of another. Nor may it do what amounts to the same thing—attend to the deprivations and injuries experienced by members of one ethnic group, but not to those experienced by members of others. Many small, foreign-language subgroups in our country have been humiliated, ostracized, oppressed; some religious groups have been scandalously treated; many in the white, Christian majority have suffered the terrible blight of family disorder and penury. Compensatory affirmative action, if undertaken at all, must be undertaken for every person who qualifies on some reasonably objective standard, a standard free of racial orientation.

Just here the system of the Washington Law School (and all others on that pattern) fails badly. By grouping races separately, and applying different standards to the different racial groups, an admissions office not only *does what is not necessary* to meet the compensatory need but *fails to do what is necessary* to meet that need. The instrument is intolerably blunt. Preference based upon race necessarily fails to respect the principle that all persons are entitled equally to the benefits and protections of the laws.

Distinct from questions concerning compensation for past injury are questions about applicants which bear upon their ability or promise to fulfill the larger social duties of the profession they seek to enter. If participation in community affairs be one of these, an admissions committee may reasonably look to the applicant's record in school or community on that front; if leadership, or industry, or self-discipline be qualities essential in that profession, the applicant may be examined, quite apart from his numerical scores, on those matters; if social service be a critical factor, the applicant's past concern for his fellows, manifested in volunteer work of different sorts, might be weighed. All these and like factors may be considered by an admissions committee, and many of these commonly are considered, both as guides in the interpretation of numerical records, and as qualities which serve as predictors of success in the school, in the profession, and in the role of citizen.

Here again, however, the weighing of such matters cannot rightly depend upon the race of the applicant. Whatever is pertinent in considering applicants of one race is pertinent in considering applicants of all races, and should be given its due weight. Racial classifications by themselves are, as the Supreme Court said in another context, "obviously irrelevant and invidious." [*Goss* v. *Board of Education*, 373 U.S. 687 (1963).]

The third step of the Washington Court's argument, I conclude, collapses upon scrutiny. For the test proposed by the Court itself—that the racial classification employed be necessary for the accomplishment of a compelling state purpose, though not stiff enough in fact, is too stiff to be met by the Law School's system of preferential admissions. Some of the interests served by that preferential system are not compelling in the required sense, some are not compelling in any sense, and of the one that is compelling it cannot be said that the system proposed is necessary for its accomplishment.

Of those who would defend preferential admissions by race, the Washington Supreme Court has been the most cogent. Yet the argument of that Court, I submit, proves unsuccessful at every critical point.

Some final notes on the counterproductivity of racial preference:

(*1*) Systems of preferential admission do not integrate, they *dis*integrate the races. However much the advocates

* Justice Douglas, in his *DeFunis* dissent, is forceful on this point: "There is no constitutional right for any race to be preferred. . . . A DeFunis who is white is entitled to no advantage by reason of that fact; nor is he subject to any disability, no matter his race or color. Whatever his race, he had a constitutional right to have his application considered on its individual merits in a racially neutral manner." [40 L Ed 2d 180.]

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of such systems may hope for ultimate integration (though some may not share the integrationist ideal), the consequence of such systems in practice is ever greater attention to race, agitation about race. The invidious consideration of ethnicity in inappropriate contexts results in rewards and penalties generally thought to be unfair, undeserved. And all with focus on race. No prescription for long-term disharmony among races could be surer of success.

(2) Achieving racial proportionality in the professions through the consideration of race in professional school admissions, even where intellectual and other pertinent considerations are counterindicative, must result in the tendency, at least statistical, to yield minority group professionals less well qualified, less respected, less trusted than their counterparts in the majority. That is a great disservice to minority groups, stigmatizing their members in a most unfortunate way. "I wouldn't hit a dog with some of the minority students I've seen," says Dr. Charles DeLeon, a black psychiatrist at Case Western Reserve University Hospital, "and I have an idea that you honkies are taking in these dummies so that eight years from now you'll be able to turn around and say, 'Look how bad they all turned out.'" [*The New York Times,* April 7, 1974.]

Results on bar examinations have been painful. In Michigan, for example, in the summer of 1971, results showed a passing rate of 71 per cent for white candidates, 17 per cent for black candidates. Some contend that such discrepancies, also encountered elsewhere, are due to the hidden racial bias of the bar exams. The measures may indeed be faulty; but it is unlikely that their flaws fully explain so large a discrepancy. Bar exams are given after three years of law school, the examination papers identified and graded by number, not name. It is probable that poorly prepared minority students, admitted preferentially to law schools, receive a sympathetic consideration in classes that is not possible in the grading of bar examination papers. The general suitability of bar examinations is now much discussed. Justice Douglas joins the National Bar Association (composed of black lawyers) in proposing their abolition. Whatever is necessary to evaluate candidates for the bar in a racially neutral way must be done, of course. But if, on such reasonable measures of performance as there are, preferential admission has distinctly invidious results, it is likely to do much damage to the minority it aims to assist.

(3) One consequence of preferential admissions programs is certain: fully qualified minority group professionals come to be viewed by many, of all races, as having gained their professional positions through favor by virtue of their race. No matter their excellence; it will be suspected that their credentials were received on a double, lower standard. It is a cruel result.

The cruelty comes clear in this statement by Prof. Thomas Sowell, educated in Harlem, now associate professor of economics at UCLA:

> . . . the actual harm done by quotas is far greater than having a few incompetent people here and there—and the harm that will actually be done will be harm primarily to the *black* population. What all the arguments and campaigns for quotas are really saying, loud and clear, is that *black people just don't have it,* and that they will have to be *given* something in order to have something. The devastating impact of this message on black people —particularly black young people—will outweigh any few extra jobs that may result from this strategy. Those black people who are already competent, and who could be instrumental in producing more competence among the rising generation, will be completely undermined, as black becomes synonymous—in the minds of black and white alike—with incompetence, and black achievement becomes synonymous with charity or payoffs.
>
> *Black Education, Myths and Tragedies*

The counterproductivity of racial preference should not be surprising. The health of the body politic depends upon a widely shared confidence by its members that public process will be governed by a few very basic principles—among them, that the laws, however imperfect, will apply to all persons equally. Any device that seeks to remedy a sickness in that body by tinkering with its basal metabolism may be expected to do damage that far outweighs its good effects. □

CASING THE DEMOCRATS # 2

Fred Harris Starts from Scratch

PETER BARNES

Fred Harris, at 44, is making his second try for the Presidency. His campaign this time promises to be a lot stronger than his short-lived attempt in 1972. Then, he started late and folded early, chiefly because he ran out of money but also because he was uncertain how to run a Populist campaign. His staff was large, expensive, and split between traditionalists and those who wanted to do things differently. Harris' heart was with the innovators but his scheduling wasn't. He'd travel in private jets, stay in fancy hotels, ride limousines, and generally try to hustle the national media into anointing him a "serious" candidate. The inconsistency between his campaign style and his Populist appeal was apparent.

Harris learned from 1972 and is no longer ambivalent about the kind of campaign he'll run. It has started out as, and will remain, a people's campaign, with few political professionals. It will connect with local activists, consumer organizations, citizens fighting utility rate increases, high food prices and tax loopholes. It won't worry what David Broder and Joseph Kraft write; if the campaign takes off, the pundits will figure it out eventually.

Peter Barnes is a free-lance writer, based in San Francisco.

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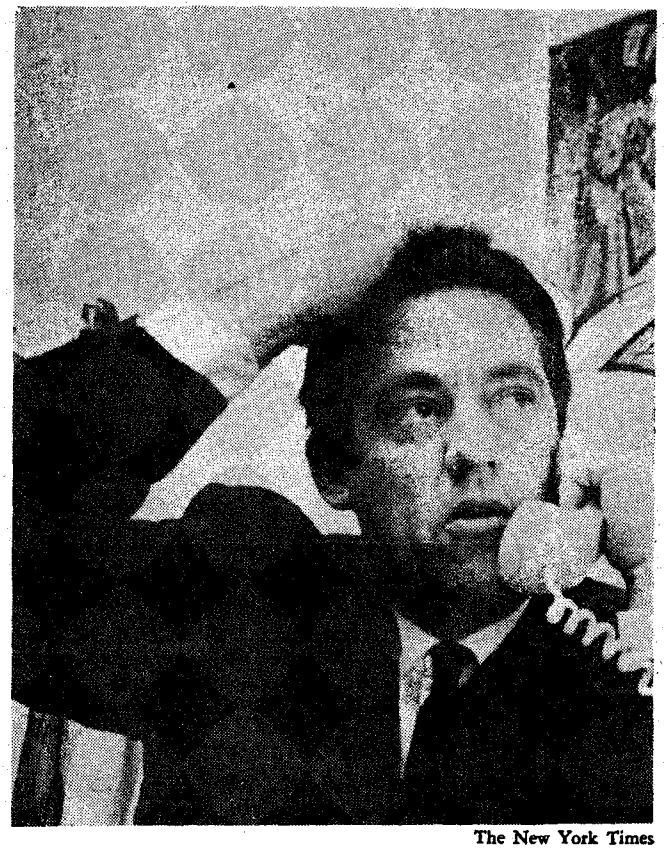

The New York Times

Fred R. Harris

Last June, long before Edward Kennedy and Walter Mondale dropped out, Harris outlined his plans in a memo to friends. He would "articulate in blunt language the real frustrations people rightly feel because of elitism, privilege, bigness and concentrated power." He would "campaign the way people live. Busses. Public transportation. Coffees in homes. Personal contact. Staying in people's homes. No campaign jets, limousines or big staffs." Since then he's been out in the country, meeting twenty to fifty people at a time at informal gatherings, steadily building a nationwide organization of committed volunteers. He's been to New Hampshire, which always has the first primary, half a dozen times, and will return there regularly during 1975. In keeping with his belief that a Presidential campaign should build from the bottom, not float from on high, Harris did all of this quietly, out of sight of the national press and the big-name politicians. When he formally announced his candidacy on January 11, he did so at a working meeting of his New Hampshire organization.

If his style and organizational strategy are new, Harris' issues are the same as in 1972. Too few people have too much money and power. Those who control the economy also control the government. The average citizen gets cheated in countless ways. Farmers and food consumers lose out to corporate middlemen, while the Department of Agriculture looks on benignly. Energy companies make windfall profits and pay hardly any taxes. Demand for autos falls but the auto oligopoly doesn't lower prices, it raises them. Harris' remedies include far-reaching tax reform, breaking up the giant corporations, ending the coziness between regulated industries and their regulators, a public energy corporation and, generally, a determination in all government decisions to put the interests of workers and consumers above those of the wealth-owning class.

The big difference between now and 1972 is that people today are ready for Harris' message. A Louis Harris poll last June found that 79 per cent of the people believe the rich get richer and the poor get poorer (45 per cent felt that way in 1966); 78 per cent believe special interests get more from the government than do the people; 75 per cent think the tax laws are written to help the rich, not the average person. Pat Caddell, McGovern's pollster in 1972, found that 63 per cent of Americans believe that "those with power are trying to take advantage of people like me"; almost 40 per cent favor nationalization of the oil industry and two-thirds support creation of a federal energy corporation along the lines of TVA. November's low turnout, says Caddell, means voters are "too aware," not apathetic. They've been educated by Watergate, the ITT affair, the energy crisis, inflation and recession.

Harris responds to this new mood of the country in a way that sets him apart from other Presidential hopefuls. He doesn't equivocate; he doesn't try to appear moderate. He says what he thinks and feels in strong, folksy language, with the assurance of a man who knows where he's come from, knows where he's going and can't be bought off. "Don't you forget it—it's us against them," he told a New Hampshire gathering last month. At a San Francisco coffee session a woman asked Harris how he'd control the CIA. "The real question is not how to control it, but whether we need it at all," Harris responded. "Why should we tax working-class people in this country to pay for an agency that undercuts working-class people in Chile?" Another question concerned Nelson Rockefeller. "If Jerry Ford had said to Nelson, 'Give of your wealth unto the people and follow me,' that would have been one thing. As it is, Rockefeller's enormous economic power disqualifies him to be Vice President or President." People who don't agree with all that Harris says are at least refreshed by his no-nonsense honesty.

Harris can talk as he does because he *does* know where he's come from and is not a packaged product. His father, a sharecropper, used to tell him that America was run by and for the big-money boys. As a young man, Harris dismissed such views on the ground that his father was uneducated. He, Fred, would get an education and climb the ladder of success and power. With indomitable energy he worked his way through college and law school, repeatedly ran for public office and, after a stint in the Oklahoma legislature, won election to the U.S. Senate at the age of 32. Lyndon Johnson spotted him as a comer and appointed him to the Kerner Commission on urban unrest. In 1968 he was co-chairman with Mondale of Hubert Humphrey's Presidential campaign and later chairman of the Democratic National Committee.

During this period Harris was an ambitious liberal-on-the-make, not a class-conscious Populist. But some time after 1968 he began to piece things together differently, to get back to his roots. His proximity to power and frustration as a Senator taught him that his uneducated father

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had been not far off the mark. His wife, a Comanche Indian, reinforced his instinctive loyalty to those not born to privilege. Following his abortive Presidential campaign and voluntary retirement from the Senate, he attempted to launch a "people's Common Cause" called New Populist Action, but mainly he used his time to think and write. His latest book, *The New Populism*, pretty well outlines what he'd do as President. He now enters the 1976 campaign as a man who wants to be President not just for the ego satisfaction it might bring but because he's angry at the way power is concentrated in America and genuinely wants to change things.

What are his prospects? The political savants are skeptical because Harris holds no public office, has no money and lacks a visible power base. They also wonder how he can get elected President if he couldn't get re-elected as a Senator in 1972. Harris answers that he could have won re-election to the Senate by glad-handing, as he had done several times before, at every street corner and bar in Oklahoma. But all that effort would have taken him back where he already had been, and he felt it was time to move up or out. Moreover, Oklahoma in 1972 is not the United States today. Part of Harris' political difficulties in his home state stemmed from his opposition to special breaks for the oil industry. That's not apt to be a political liability in the 1976 national campaign.

Nor is the lack of public office a disadvantage, Harris feels. It means no free staff, telephones or other perquisites, but it leaves him free to run for President full-time and spares him the mistrust that often adheres to incumbents these days. Money is a problem, but not what it was in 1972. The new campaign financing law is tailor-made for a serious Populist candidate, Harris believes. By limiting individual contributions to $1,000, it puts the fat cats—and the candidates who were counting on them—out of business. By providing full federal financing for the general election, and dollar-for-dollar matching funds for the primaries, it drastically reduces the amount of private money Presidential candidates must raise. And by requiring candidates to raise $100,000 in small contributions, evenly spread over twenty or more states, in order to qualify for matching funds in the primaries, it weeds out the lightweights and purely regional candidates. As for a power base, Harris' network of activist volunteers grows larger every day. It numbers in the hundreds now, and by 1976 will be in the thousands. That's as much as any candidate, except perhaps George Wallace, will have going for him.

Several other factors should be kept in mind when assessing Harris' prospects. He is, first of all, a vigorous and effective campaigner, the kind who's willing and able to run a Kefauver-type campaign in New Hampshire. His Southern accent and Populist perorations go down well in Wallace country and with white workers; he also has a strong rapport with blacks. George Meany doesn't love him but can live with him. And with Kennedy and Mondale out of the race, with Morris Udall assuming a Muskie-like posture, and Eugene McCarthy in another ball park entirely, Harris has the Democratic Left all to himself.

The new delegate rules for 1976, notably the change from winner-take-all to proportional primaries, means it's unlikely that anyone will win the Democratic nomination on the first ballot. But if Harris does well in New Hampshire and the later primaries, and if his cadres work hard in the nonprimary states, he could go to the convention with as many delegates as anyone but Wallace. The Democrats would then have to decide whether to put Wallace on the ticket with someone like Jackson, making serious policy concessions to Wallace, or go with Harris as the only candidate who can appeal to the Left, to labor and to Wallace voters, if not to Wallace himself. □

AMERICAN SKEPTICISM

THE MANDARIN VIEW OF CHINA

L.S. STAVRIANOS

The reaction of American intellectuals to China today recalls the reaction of imperial China's mandarins to the West. That may seem implausible, given the fact that a visa to the People's Republic remains the most prized of travel documents. Yet the overwhelming majority of American intellectuals are curiously reluctant to analyze seriously the nature and implications of the Maoist experiment. During a recent conference on extraterrestrial life, American scientists speculated seriously on the possibility of learning from such life how better to cope with our earthly problems. Yet, with few exceptions, these scientists have not concerned themselves with that vast laboratory for social innovation where one-quarter of the human race is addressing itself directly and purposefully to problems that concern the other three-quarters as well. There has been interest in acupuncture and barefoot doctors and native strains of "miracle rice," but how many have seriously investigated China's substantive social experiments—to substitute social service for personal gain as the mainspring of society, to eliminate the "private ownership of knowledge," to introduce self-management in factories and communes, to reduce the age-old tension between rural areas and urban centers, and also between mental work and physical? What proportion of popular and professional writings in the United States are devoted to analyzing this unprecedented social creativity, and what proportion to speculation about Chou's political

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Mao Tse-tung

fortunes or Mao's health and the power struggles over the succession?

Among the reasons for this failure to explore are the disillusioning Soviet precedent, the alleged rigidity of "human nature," the "irrelevance" of Maoism for Western societies, and the commitment to American values and criteria when judging Chinese developments.

Skepticism about China because of what happened in Russia is as understandable as it is widespread. The Soviet experience demonstrates all too clearly that revolution and the expropriation of private property do not guarantee an egalitarian and participatory Socialist society. There is danger not only of counterrevolution and capitalist restoration, but also of regression through the rise of a party and state bureaucratic elite which grants itself as much privilege and luxury as did the old capitalists. This regression did materialize in the Soviet Union, but it does not follow that all future Socialist revolutions must experience it. It is historically myopic to assume that socialism should have appeared suddenly and full-blown on the world stage. Capitalism, it should be recalled, made several abortive appearances in medieval Italy before taking root in northwestern Europe.

More important is the fact that the Chinese leaders, very much aware of the danger of regression, are constantly warning against it and have introduced various institutions and practices designed specifically to avoid what they term "Soviet revisionism." These include the careful nurturing of the "new Maoist man" who is viewed as the prerequisite rather then the end result of the new society, an educational system planned to combat the "private ownership of knowledge," the May 7th cadre schools where brain workers do periodic manual labor for three-to-six-month periods, the *Hsia fang* or "going down" principle requiring those at the top of all institutions to spend part of their time working at the bottom, and the Cultural Revolutions unleashed intermittently to eliminate whatever backsliding does occur. All this does not mean that China will avoid the Soviet discrepancy between Marxist rhetoric and social reality, but neither can it be assumed that such discrepancy is unavoidable.

Perhaps the most pervasive reason for discounting the Maoist experiment is the assumption that it is doomed by intractable "human nature." Barry M. Richman, professor of business management at the University of California, Los Angeles, states in his study of *Industrial Society in Communist China*, that "world history and experience strongly indicate that the Chinese regime will not be able to eliminate self-interest and material gain as motivating forces for managers, technicians or workers, and at the same time achieve sustained and impressive industrial progress in the long run. If by some miracle they do succeed, this would have very great philosophical and cultural impact on the functioning of the rest of the world. But I am betting against such a miracle."

Even the most cursory reading of world history (let alone anthropology and psychology) points to the rashness of Richman's wager. During four-fifths of the approximately 50,000 years that *Homo sapiens* has existed on this planet, his Paleolithic society was communal and egalitarian. It was not until about 6,000 years ago, when he had developed agricultural techniques to the point where he was able to produce more than he needed for subsistence, that class differentiation and inequity emerged. It was not a matter of genes but simply new social relationships resulting from a new technology. Thus more than 80 per cent of human history challenges the common Western assumption that Maoist society is bound to fail because it depends more on moral than on material incentives.

The generally acknowledged success of China's economy since Richman's pessimistic forecast also challenges this assumption about human nature. David Rockefeller of the Chase Manhattan Bank returned from China in August 1973 with growth statistics that he characterized as "quite remarkable." The "miracle" that Richman dismissed has materialized, suggesting optimistic possibilities for present and future human communities. Yet Western intellectuals choose to ignore these possibilities, preferring instead to indulge in lugubrious soul-searching, the most recent example being Stephen Spender's pontification in the columns of the *The New York Times* (January 4) that " 'human nature' [is] an impassable wall that prevents us from taking obvious measures to save ourselves from destruction."

The third reason for discounting the Maoist undertaking —that it is irrelevant for Western societies—is based on the mistaken equation of precedent with blueprint. Thus John K. Fairbank asserts that "the Chinese revolution hardly offers a model to follow; its methods don't scratch us where we itch." (*The New York Review of Books*, February 24, 1972.) And John Kenneth Galbraith, after his 1972 visit to China, concluded, "The Chinese economy isn't the American or European future, but it is the Chinese future. And let there be no doubt: for the Chinese it works." (*The New York Times Magazine*, November 26, 1972.) That is fine as far as it goes, but it doesn't go very far because both Fairbank and Galbraith unrealistically are isolating China from the rest of the world. What is going on in China obviously is not going to be the "future" or the "model" for Americans or Europeans or

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Third World peoples or anybody else. But the fact that China cannot serve as a *blueprint* does not exclude the possibility that it might serve as a *precedent*. If in the next decade or two China demonstrates that it *is* possible to build a modern industrial society on the basis of moral rather than material incentives, that it *is* possible to reverse the worldwide exodus from country to city, that it *is* possible to enjoy a high quality of life without a high standard of living, then might not those precedents have profound repercussions upon the entire world, developed and underdeveloped alike?

The final reason for the current discounting of China is a nebulous, subconscious ethnocentrism. It is in this respect that American intellectuals today most resemble the 19th-century Chinese mandarins. The latter were so steeped in Confucian traditions and so attuned to the concept of the primacy of their Middle Kingdom that they simply could not seriously consider the possibility that anything significant could be learned from the "long-nosed barbarians" of the West. That it is so also with their American counterparts today is illustrated in Barrington Moore, Jr.'s *Reflections on the Causes of Human Misery and upon Certain Proposals to Eliminate Them*, and Robert Heilbroner's *An Inquiry into the Human Prospect*. In considering these two works, it is instructive to note the report of Winston S. Churchill, M.P., following his 1972 visit to China. Churchill begins by quoting the recollections of an old China hand in Peking, John Keswick of Jardine, Matheson & Company:

> To those of us who knew China in the thirties it was a land plagued by floods, famine, disease, oppression, civil war and foreign invasion. I remember flying down from Peking to Shanghai. From 50 miles out of Peking to 30 miles short of Shanghai there was nothing but a vast expanse of water beneath us on the 750-mile flight. The floods were terrible. Travellers on the trains would see nothing around them but water with the exception of the elevated railway embankment and a few trees. In the trees they would see whole families waiting to be rescued. But they waited in vain—nothing was done to save them. That year 10 million people died in the floods and the famine that ensued. We would say to ourselves: if only flood control barriers and irrigation projects could be built, if only there could be enough food, inoculation, an end to corrupt government, civil war and invasion. If only . . . the list was endless.

Churchill then observes that "There is no more starvation among China's 800 million people. Certainly the great majority of Chinese living in or near the big cities eat meat every day as well as ample green vegetables and rice or bread, as my wife and I were able to see for ourselves on several visits—some prearranged, others impromptu—to the homes of industrial or agricultural workers in or near Shanghai, Hangchow and Peking." (*Observer Review*, April 30, 1972.) Since this refers to one-fourth of the human race, it obviously represents a substantial decrease in the sum total of "human misery." Yet Barrington Moore, Jr.'s study of that very subject ignores this remarkable contemporary achievement, while reviewing extensively the ravages of war, disease, poverty and social injustice in ancient Egypt, Greece, Rome and medieval Europe.

Likewise Heilbroner's references to China are only that —only general acknowledgments such as the following: "As the example of China illustrates, there is no reason to doubt that impressive changes can be achieved in lessening the social or economic gradations among classes or individuals." Such a statement appears, in the context of the entire book, to be a *pro forma* acknowledgment made for the record but not for serious consideration in the final assessment of the "human prospect." Hence the conclusion that the "cesspool of Calcutta becomes more and more the image of urban degradation toward which the dynamics of population growth are pushing the poorest lands." But why must Calcutta be the model? Why not Shanghai? A few decades ago it was as much a cesspool as Calcutta, but today its cleanliness, health standards and freedom from crime some New Yorkers might envy. Heilbroner candidly states his concern about preserving his private *douceurs* as a Western intellectual, but does that justify a political economist in focusing on "resource-consuming and heat-generating processes," and eschewing serious examination of the institutional innovations that the Chinese have made to cope with precisely the global problems that cause Heilbroner to conclude that "man's future prospect seems very slim indeed?"

The basic problem is the tendency to judge China according to Western precedents and criteria. This leads inevitably to the same misinterpretation and underestimation that characterized the mandarin view of the West. Certainly an outsider viewing medieval Western Europe who focused on the shortcomings—grossly incompetent monarchs, dynastic rivalries and conflicts, urban social strife, ceaseless feudal warfare, and corrupt and incompetent administrators—might have concluded that the future of the underdeveloped western tip of Eurasia was hopeless. Today, in the light of historical perspective, we know that this conclusion, although logical and based on facts, was irrelevant and misleading because it overlooked the dynamics of the new Western civilization that was emerging in the manors and cities, and that eventually was to overrun the globe.

Likewise in assessing Maoist China today it is tempting to focus on power struggles in Peking, on the short-lived "Hundred Flowers," on the sudden transformation of heirs apparent into nonpersons, and on the disaffected youth who flee from the communes to Hong Kong or to nearby cities—and from there to make disparaging contrasts with the individual freedom and political pluralism of the West. But again this conclusion, though based on objective facts, ignores the dynamics of another new civilization that is taking form in Chinese schools, factories and communes. American intellectuals who limit themselves to this angle of vision in interpreting China may find themselves the mandarins of our times. □

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BOOKS & THE ARTS

'The Like of Us Will Never Be Again'

THE ISLANDSMAN. *By Tomas O'Crohan. Translated from the Irish by Robin Flower. Oxford University Press. 260 pp. $5.*

TWENTY YEARS A-GROWING. *By Maurice O'Sullivan. Translated from the Irish by Moya Llewellyn Davies and George Thompson. The Viking Press. 316 pp. $4.*

PEIG: The Autobiography of Peig Sayers of the Great Blasket Island. *By Peg Sayers. Translated from the Irish by Bryan MacMahon. Syracuse University Press. 212 pp. $7.95.*

DANIEL J. MURPHY

The Blasket Islands lie off the Dingle peninsula, in the extreme southwest corner of Ireland. Of these islands, only Great Blasket was inhabited during the period covered by these three books. The island is approximately 5 miles long, about a mile wide, and some 1,000 feet at its highest point. For the most part it is a treeless bog, descending to the west into a headland of bare rock. Only the eastern end was inhabited, where a small village of about 150 people was sheltered from the elements and where there was enough soil—mulched with washed seaweed—to support crops of oats and potatoes and to provide grazing for the few sheep and cattle the islanders possessed—in Peg Sayers' phrase, "All the land we possessed was the grass of two cows."

The islanders' only fuel was the peat that covered the central and western portion of the island; it was harvested in good weather and brought to the house on the back of an ass if one were fortunate—on one's back if one were not. The peat fires in open hearths at the western end of the long narrow houses provided the focal point for the life of the Gaelic-speaking islanders, telling stories—some as old as Beowulf—and singing songs from the 17th and 18th centuries, and dancing traditional jigs, reels and sets. Whether the floor of the house was packed earth or wood—salvaged from shipwrecks—fine sand from the strand would be swept across the floor daily.

No market existed on the island; all provisions had to be marketed on the mainland, in the towns of Dingle or Dunquin. All travel to and from the mainland was by currach, a canoe of wicker framework covered with tarred canvas that was light enough for two men to carry on their backs. The currach was rowed by four men, supplemented by sail when the weather was right.

There was a great deal of social drinking, both porter and whiskey during periods of celebration, formal and informal. The whiskey—though none of the books names it—must have been poteen, a white, illicitly distilled whiskey. The diet consisted of fish and potatoes, oatmeal, some occasional milk and, rarely, seal meat, beef or lamb. In good weather and bad, the men were out in the currachs with their nets after whatever fish was available—mainly mackerel—before they learned the value of the lobster.

The islanders were a deeply religious people, and every Sunday—weather permitting—the men would row the 3 miles to the mainland and attend Mass in Dunquin. If the weather did not permit them to attend Mass, the whole family would recite the rosary. A priest from Dunquin would be rowed over to the island once a year to hear confessions, and every three years the young people would be confirmed in Ballyferriter.

Tomas O'Crohan's *The Islandsman* is the first record we have of this life, told from the viewpoint of the islander. It contains a straightforward account of a life of hunting, fishing, celebrating and sorrowing—a story of the monotony and revelry of island life. He attended school occasionally, whenever they were lucky enough—or unlucky from the children's point of view—to have someone to come out to the island to teach. Most of his youth, however, was spent hunting rabbits and puffins, searching for bird's eggs and catching crabs.

When Tomas was old enough, he was married in island fashion. A match was proposed between himself and a girl from the mainland, but his sister Maura "had herself marked down an excellent, knowledgeable girl, whose people lived in the village, so they could lend us a hand when we needed it, and she went on to explain the whole affair to us, like a woman reciting the litany, till she had the whole lot of us as tame as a cat. . . . A week from that day we were married—Tomas Crohan and Maura Keane—in the last week of Shrove in the year 1878." They had ten children, two of whom survived to adulthood. One drowned, one fell off a cliff, two died of measles, "and every epidemic that came carried off one or another of them."

From this time until he was too weak to fish, every day possible was spent on the sea fishing for mackerel either to be salted down or sold in the market town of Dunquin. On a good night, each of the currachs would have 3,000 mackerel, sold through a broker for a shilling a hundred.

Another cash crop was the lobster. The islanders discovered them accidentally. One day while fishing, they saw a line with a float attached—when they drew it up and found a lobster in the pot, they were both fascinated and frightened:

> "My heart from the devil," cried Shaun Fada, "it is the devil himself is in it. Throw it out quickly."

They didn't, and Shaun Fada was even more frightened:

> "Your soul to the devil, pot and all, for it is the old fellow surely that's in it. . . . My heart and body from the devil, it will do harm. . . . Musha, upon my soul you don't know what it would do with the devilish haste it is in."

When the lobster was taken to a nearby English boat, the people on board told them what it was and how valuable it could be. The islanders made pots, and from that time on sold lobsters for cash and for barter—for biscuits, tobacco, a joint of meat or a pint of whiskey.

Thus Tomas O'Crohan passed his life, knowing very little joy, sustained by religion and the rhythm of the only life he knew. He spent his last years teaching Irish to the people of the mainland and setting down this memoir, about which he says: "I have written minutely of much that we did, for it is my wish that somewhere there should be a memorial of it all, and I have done my best to set down the character of the people

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about me that some record of us might live after us, for the like of us will never be again." *The Islandsman* was very popular both in Irish and English.

Even more popular was Maurice O'Sullivan's *Twenty Years A-Growing*. The title comes from an island saying: "Twenty years a-growing, twenty years in blossom, twenty years a-stooping, and twenty years declining." The book was written, as O'Sullivan stated in the original Irish edition, "for the entertainment and laughter of the old women of the Blasket Island, who showed me great love and affection when I used to call on them during the long winter nights. And so, remembering their sorrow when I left them, I took up my pen and wrote this book in order to send my voice into their ears again, the voice that always roused them."

The book is a record of O'Sullivan's childhood and early manhood, told with elegance and wit, and concerned only with those events that would be of interest to the islanders, many of whom participated in or witnessed the events recorded here. They record how he marveled about life on the island after he had returned to it as a youth in 1911, after he had been on the mainland for some years:

> [The children] gathered round myself, every one of them staring at me, some with a finger in their mouths, others coming up behind me. . . . When I looked at them they would smile and hide their faces one behind another.

Soon he was hunting with them for eggs and rabbits, crabbing and, later, fishing with the men in currachs in search of mackerel and other fish. The importance of fish to island life is emphasized often by O'Crohan and O'Sullivan:

> "Musha," said Shaun Michael, "I think the net is straight down with fish." My heart rose with delight. My father drew in the end of the net. There was mackerel in every mesh.
>
> "Upon my soul he won't land all he has," said Shaun Fada.
>
> "No matter for him," said the Puncan, throwing another spittle of tobacco, and a big yellow streak down his chin from chewing it.

They caught so much mackerel that night that the net had to be cut and the fish taken into other currachs.

The life described by O'Sullivan is essentially the life described by O'Crohan, but with less sadness, since O'Sullivan did not live through the tragedies and sorrows that O'Crohan experienced and since O'Sullivan left the island as a young man. He was drowned in Connemara in 1950.

In view of these two books, describing life on the island from the male's point of view, we are fortunate indeed to have Peg Sayers' *Peig*. Peg was brought up on the mainland, where she spent a life of servitude and hardship. This was abruptly changed when a friend failed to send her the promised passage money to join her in America; two choices presented themselves: to return to service or to marry. The problem was resolved when her brother Sean told her he had made a match for her with an islandsman:

> Three nights after this, three men walked in the door. . . . I didn't open my mouth, but I was peeping from under my eyelashes at the young men. I couldn't decide which of the three was asking for me because I knew none of them. . . . Oh dear, that match didn't take long to make! There was little more to it than "Come along" and "I'm satisfied."

Peg Sayers spent the next forty years on Great Blasket Island—"a troubled and tormented life. . . ." Much of the grief she suffered was over the death of four of her ten children, another was the torment of all-night vigils while her husband was out fishing:

> But the nights he'd be fishing for mackerel I wouldn't close an eye. . . . I was terrified! I'd have an ear cocked until I'd hear him coming and many's the night I spent by the fireside until day dawned without a single spark of courage in my heart."

Her life was not only composed of grief and terror. It was also composed of visits with her neighbors, of nights filled with singing, dancing, drinking, and telling stories and reciting poems. But when life was hard on the island, it could be desperate. When the islanders were not catching mackerel and food was low, many of the people were dispirited. At one such time, a woman had to carry her daughter's body to the graveyard. She got a rope and "tied it around the daughter's waist; then she tied the rope around her own waist and placed the dead daughter's two hands on her own shoulders from behind. That's how she brought the corpse to Ballinahow graveyard, walking and resting, every second turn."

Peig recounts a life of tragedy and joy in which whatever occurs is stoically endured, buoyed by the companionship of neighbors and by faith in God. It also closes the curtain on island life: "people like us will never again be there. We'll be stretched out quietly—and the old will have vanished." Peg Sayers' book was judged the best work in Irish the year it appeared, and she was awarded the Douglas Hyde prize of £50. She died in 1958 at the age of 85. We are fortunate that she told this story to her son, for it is the last we will have from the Blaskets—the islanders were removed to the mainland and settled on farms there. Life on the Blaskets had become too difficult to be endured. □

Lenin's Favorite, Stalin's Victim

BUKHARIN AND THE BOLSHEVIK REVOLUTION: A Political Biography, 1888-1938. *By Stephen F. Cohen. Alfred A. Knopf. 495 pp. $15.*

GEORGE G. ECKSTEIN

The world at large—insofar as it is interested at all in fallen giants after more than one generation—has always considered Trotsky as *the* adversary of Stalin. He had the good fortune to have been the first one eliminated in the competition for power which began after Lenin's death. Not until 1940 could Stalin's murderers silence him for good in his exile abroad. In Mexico the flamboyant victor of the Civil War, the versatile and brilliant writer, had been able to become, in the eyes of the world, voice and symbol of Soviet Russia's suppressed political opposition. Actually, however much Trotsky's criticism of Stalin was accurate in detail, his basic political tenet—permanent revolution—had long been disproved by history. As early as 1923 it had become clear that world revolution was no longer on history's agenda, at any rate not in the form envisaged by Marxism.

Accordingly, the development of Soviet Russia, and its role in world politics, had become a purely Russian affair. And in the internal policy struggles, which were to fill, in varying degrees of sharpness, the decade after Lenin's death, after the elimination of Trotsky only one man had the stature of a political rival for Stalin: Nikolai Bukharin. But only a relatively small circle was fully aware of his role and his abilities. Since then, Stalin's rewriting of history has added to the blackout of Bukharin's contributions, and for reasons to be mentioned later, even Stalin's death has not brought about Bukharin's *political* rehabilitation. Now Stephen F. Cohen, a young political

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scientist at Princeton, presents his political biography.

It is an extremely thorough work: more than 1,500 footnotes testify to the diligence of his research. At times less might have been more—Cohen's zeal cannot quite make up for the lack of personal experience and leads to an occasional misinterpretation. But on the whole he gives a good picture of the evolution of the Bolshevik Party and regime, and of the part played by Bukharin, long its most important theoretician.

Nikolai Bukharin, born in 1888 as the son of an educated functionary in the middle range of Czarist bureaucracy (like Lenin), is revealed in Cohen's description as a man of great personal charm, "the favorite of the entire party," (Lenin's words) with a wide-ranging intellect. Economic theory, sociology, philosophy always were his main fields; but throughout his life he was also deeply interested in literature and art, and open to Western ideas. A member of the younger generation of the party, having joined it as a student in the aftermath of the revolution of 1905, he quickly made a name for himself among the *émigré* revolutionaries. He published fundamental articles, especially on political economy and imperialism. Cohen describes his complex relationship with Lenin: Bukharin admiring yet critical; Lenin's intolerance of "incorrect" opinions softened by fatherly affection. Before the revolution, one of their major disagreements concerned the role of Malinovski, the Czarist agent in the Central Committee whom Lenin stubbornly refused to disavow; during the revolution they disagreed about the peace treaty of Brest-Litovsk—a tactical submission to Imperial Germany which Bukharin opposed as a member of the "Moscow Left." Nevertheless, Lenin considered him a potential successor.

Cohen follows in detail Bukharin's important function as editor of *Pravda* which he headed for twelve years, as well as his role as chief theoretician of the party who, in his major writings, drew theoretical conclusions from the party's changing political practice. In the process he moved from Left to Right—from the radical period of war communism and his "Historical Materialism: A System of Sociology," through the NEP period of reconstruction, to his ultimate theories of a mixed economy with an agrarian private sector and a balanced "Socialist industrialization" with the accent on consumer goods. This would bring him in conflict with the Trotskyist Left and its program of forced industrialization, especially of heavy industry, at the expense of the peasants. The fundamental differences over industrial and agrarian policies, soon to be exacerbated by differences over foreign policy, dominated the party debates of the 1920s. Personal tensions, the fight for power, and genuine differences of opinion over the direction of the revolution became inextricably interwoven.

Stalin pursued single-mindedly the consolidation of his personal power. Using Bukharin's prestige for his own purposes, he succeeded in excluding and demoralizing the Left between 1925 and 1927. The duumvirate with Stalin during these years represented the zenith of Bukharin's influence, even though Stalin's personal ambition began to fill him with anxiety. And in assisting Stalin in crushing the Left, he had unwittingly prepared his own demise. It was not long in coming.

Like Lenin, Stalin and most Bolsheviks tended to think in terms of raw power (and therefore had no use for sociology). With his sociological background, Bukharin was one of the few to see society in terms of social forces and the changing equilibrium in their mutual relationships. In terms of practical politics, this meant after 1927 that, unlike others, Bukharin did not consider the peasantry simply as an object of power policy, to be crushed if necessary; nor was he willing to subject the precarious pacification of society achieved by the NEP to new radical stresses. His "rightist" line was shared by the trade unions under Tomskii and the economic specialists under Rykov.

The year 1928 brought a sharp change of policy and a decisive shift of power. Various circumstances weakened Bukharin's position vis-à-vis Stalin. Cohen writes, "The Politburo made policy; but Stalin, through the Secretariat, implemented and thereby could transform it." Cohen lists the penetration of rightist strongholds in government and party by Stalin's stooges. But he omits one major factor: Stalin's control of the GPU. This leads him also not to recognize the full significance of a decisive episode in March 1928: the "Shakhty affair." Stalin was responsible for more than merely "promoting what appears to have been a frame-up into a national political scandal. . . ." Cohen adds, "Through it he sought to discredit Bukharin's collaborative policies . . . Rykov's management of the state apparatus to which most non-Bolshevik specialists were attached, and Tomskii's leadership of the trade unions which were nominally responsible for overseeing their work."

Actually, this supposed plot of technical specialists for the benefit of foreign powers shows the master's hand that set the pattern of all the plots to come: the indictment for sabotage and treason, the show trial with its first surprising "confessions," the organized campaign demanding punishment, the creation of an atmosphere of suspicion and fear of "conspiracy." In this fashion Stalin succeeded in imposing on his adversaries his choice of the ground and the weapons so as to insure that they would be defeated. Further, he forced them to adopt, however reluctantly, his interpretation of mistakes as sabotage, and to demoralize themselves through public "self-criticism."

The power positions of the Right in the administration, in the party and in the International turned out to be illusory. One month after Shakhty, Stalin controlled the majority of the Politburo; three months later, the Central Committee *de facto*; one year later Bukharin was eliminated as a political rival—even if his great reputation would protect him for a while from direct persecution. "Bukharin's tragedy, and the crux of his political dilemma, lay in his unwillingness to appeal to [the sympathy of the nation]. . . . His reluctance derived from Bolshevik dogma that politics outside the party was illegitimate, potentially if not actually counterrevolutionary. Party politics outside the leadership arena had also become suspect and atrophied. Bukharin, Rykov and Tomskii therefore colluded with Stalin in confining their fateful conflict to a small private arena, there to be strangled behind the back of the party."

Psychologically and politically chained to the system, Bukharin was made to approve the forced collectivization which he had long opposed. At the heavy price of periodic "self-criticism," he attempted to exercise a measure of influence, highly circumscribed and reduced to Aesopian language. He was thoroughly aware of the hopelessness of his role. When he came to Paris in the spring of 1936 to negotiate the purchase of certain archives from Boris Nicolaievski, the *émigré* Menshevik historian, he left with him the impression of a despairing man, as well as certain important internal information which Nicolaievski published shortly afterward as "Letter of an Old Bolshevik." Yet Bukharin refused to stay abroad. Two months after his return he was mentioned as a future target in the first of the "Moscow Trials." Immediately after the second one, in February 1937, he was arrested. In the third trial of the "Bloc of Rights and Trotskyites" in March 1938 he played his part to the bitter end. Not without fighting back: despite the threats of the prosecutor, he repeatedly attempted to give his version of things, often in devious language, but comprehensible to the initiated. In his final plea before the court he saw his own fate engulfed in the "dark vacuity"

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toward which the world was steering.

The tragedy of his fate has lasted beyond his death. Under Khrushchev the criminal accusations against Bukharin were withdrawn and his party honor restored. But his *political* rehabilitation obviously is still considered too dangerous; it would call into question the legitimacy of collectivization, one of the basic pillars of Soviet economy. Perhaps, after Cohen's well-documented biography, it will become more difficult to continue to suppress Bukharin's true role in Soviet history. □

Book Marks

CAREY McWILLIAMS

The Nation reviews perhaps 200 titles a year—a handful of the estimated 40,000 books published last year and of the number actually submitted for review. A distressing fact, but one with which we must live. Special circumstances make it even more distressing. As a matter of policy, we do not ordinarily review books by *Nation* contributors. Yet these contributors have a claim on our conscience and by the same token so, too, do our readers who, we assume, would like to know about the latest works published by contributors. So now and then we offer a word or two of comment about titles that fall into this and related categories.

JEANNETTE RANKIN, FIRST LADY IN CONGRESS: A Biography. *By Hannah Josephson. The Bobbs-Merrill Co. 227 pp. $8.95.*

A lively, shrewd, sympathetic account of the remarkable career of Jeannette Rankin of Montana, the first woman to be elected to Congress. As everyone knows, Rankin voted against World War I and, years later, against World War II, a distinction which in itself insures for her a secure niche in the American Pantheon. In one sense these two votes—separated by the long interval when Rankin was not in Congress—have limited appreciation of other aspects of her career, as a feminist, pacifist and political agitator for a variety of good causes. The author has contributed to *The Nation.*

SMITH'S MOSCOW. *By Desmond Smith. Alfred A. Knopf. 335 pp. $8.95. Paper $4.95.*

The first complete guide to Moscow for tourists, foreign residents, businessmen and adventurers. The author, long a staff contributor to *The Nation,* is at present director of television in Montreal for the Canadian Broadcasting Corp. Not only is this a model guide of its kind—it is even conveniently designed—but it is written with verve and a remarkable eye for interesting detail. The author is now at work on a second guidebook, *Smith's Montreal.*

COLLECTED POEMS, 1924-1974. *By John Beecher. Macmillan Publishing Co. 290 pp. $8.95.*

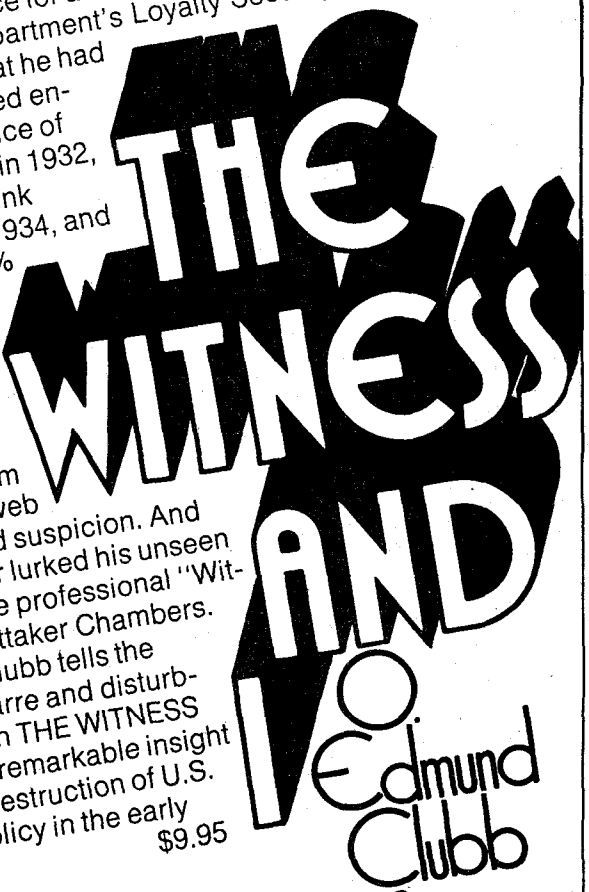
John Beecher—"a man who speaks for the conscience of the people," as William Carlos Williams once said—was born in New York City but grew up in Birmingham, an outsider, "a Damyankee." The experience may help explain his emergence as a rebel poet, a provocative and eloquent voice of protest. For years Birmingham exhibited less than total enthusiasm for Beecher's writings and activities, notably his civil rights activities. But not so long ago the city set aside a day to honor him, a bit overdue but a fine idea. It is good to have the best of his work assembled in one volume. The poet is a *Nation* contributor.

J. W. GITT'S SWEET LAND OF LIBERTY. *Compiled, edited and with an introduction by McKinley C. Olson. Fore-*

A guide to witch hunting—by a distinguished victim.

When O. Edmund Clubb assumed the post of Director of the State Department's Office of Chinese Affairs in July 1950, he had been in the U.S. Foreign Service for a full twenty-two years. Suddenly, the Department's Loyalty Security Board charged that he had delivered a "sealed envelope" to the office of the New Masses in 1932, had revealed "pink tendencies" in 1934, and had been "100% Red" in 1940.

His attempts to answer these Kafkaesque charges only enmeshed him deeper in a web of smear and suspicion. And at the center lurked his unseen accuser, the professional "Witness," Whittaker Chambers. Now Mr. Clubb tells the whole bizarre and disturbing story in THE WITNESS AND I—a remarkable insight into the destruction of U.S. China policy in the early fifties.



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word by Morris H. Rubin. Jerome S. Ozer, Publisher. 224 pp. $8.95.

McKinley Olson, a frequent contributor, has skillfully selected samples of J. W. Gitt's editorial and other writings covering the period from 1915 to 1970. Even in his lifetime Jess Gitt was a legendary figure in American journalism. *The York Gazette and Daily* was one of the most remarkable American papers during the long period when Gitt was responsible for it. It was the only daily in the country to support the candidacy of Henry Wallace in 1948. Jess Gitt was the embodiment of the best qualities of the native American radical tradition. Olson, who worked on the paper for some years, has written the best description of the volume he has edited: "A democratic handbook in the American grain."

HISTORY AS A WAY OF LEARNING. *By William Appleman Williams. New Viewpoints. 430 pp. $12.50. Paper $4.95.*

Eighteen articles and reviews by the distinguished American revisionist historian who has now returned to the West Coast as professor of history at Oregon State University. Four of the articles included in this volume first appeared in *The Nation.*

ALL PEOPLE ARE FAMOUS: Instead of an Autobiography. *By Harold Clurman. Harcourt Brace Jovanovich. 328 pp. $8.95.*

From the Lower East Side to Paris, Moscow and always back to Broadway; from Sylvia Beach and Alfred Stieglitz to Marlon Brando and Jacqueline Kennedy, Harold Clurman offers, "instead of an autobiography," a gallery of the men and women who have helped him to understand, enjoy and survive the half century since World War I. Most of the people in Clurman's huge case have "names," but he has too much wit and too much respect for himself and his readers to parade them as celebrities. "All people are famous," he says, and for certain he has kept his own life verdant by finding them so.

INSIDE CUBA. *By Joe Nicholson, Jr. Sheed and Ward. 235 pp. $8.95.*

An interesting report on present-day Cuba by a *Nation* contributor.

URBANIZATION AS A SOCIAL PROCESS: An Essay on Movement and Change in Africa. *By Kenneth Little. Routledge & Kegan Paul. 153 pp. $10.*

A study of urbanization as an aspect of the social as well as industrial revolution under way in Africa south of the Sahara. The author, a *Nation* contributor, is professor of African Urban Studies at the University of Edinburgh. His previous studies in this area include, *West African Urbanization* (1965), and *African Women in Towns* (1973).

OKIES: Selected Stories. *By Gerald Haslam. New West Publications (Civic Center Box 4037, San Rafael, California, 94903). 113 pp. $2.95.*

So far as I know, Gerald Haslam is the first representative of the "Okie" subculture in California to express, in fictional form, significant aspects of the Okie-Arkie experience. A talented young writer, he has a remarkably fine ear for Okie speech. The book was first published in a small edition in October 1973. Although it received no reviews, the edition quickly sold out, in part perhaps because it won the Joseph Henry Jackson Award. A year later this second edition was issued, with one more story added. The book was first published by "a four-man co-op." Haslam is a native of Oildale, Calif., a small town just north of Bakersfield. He was a classmate and boyhood friend of Merle Haggard, the country singer, and one reviewer has described these stories as "country music set to prose"—not a bad description.

SHOULD TREES HAVE STANDING? Toward Legal Rights for Natural Objects. *By Christopher D. Stone. Wm. Kaufmann Inc., Los Altos, Calif. 102 pp. $6.95.*

The Supreme Court ruled (dissents by Douglas, Blackmun and Brennan) that the Sierra Club lacked legal standing to bring an action in which it sought to enjoin the U.S. Forest Service from proceeding with a $35 million recreational complex in Mineral King Valley, a wilderness area in the Sierra Nevada Mountains. Christopher Stone, on the faculty of the Law School, University of Southern California, son of I.F. Stone, and a *Nation* contributor, used this litigation to develop the fascinating argument that nature and natural objects—trees, rivers, lakes, mountains—could be regarded as subjects of legal rights. The book was cited by Justice Douglas in his dissent and is certain to have a wide influence on the development of environmental law. Incidentally, this slight volume, modestly described by its author as "an essay in hard cover," has become a bestseller.

BLUE COLLAR COMMUNITY. *By William Kornblum. Foreword by Morris Janowitz. University of Chicago Press. 260 pp. $9.95.*

A study, in the best University of Chicago tradition, of South Chicago, a large steel mill community with a predominantly working-class population divided into various ethnic and racial groups. The author, who has contributed to *The Nation,* feels that the term "white racism" is misleading when applied to the blue-collar community in South Chicago. Racial tension exists, but blacks are able to succeed to leadership positions in groups that include white community leaders. Excellent background for an understanding of the insurgent rank-and-file rebellion in the Steelworkers union led by Ed Sadlowski.

YERBA BUENA: Land Grab and Community Resistance in San Francisco. *By Chester Hartman. Glide Publications. 228 pp. $8.95. Paper $4.95.*

A fine example of investigative reporting at its best. The story of one urban renewal scheme, but relevant to many similar schemes in other cities.

THE PACIFIC SHORE: Meeting Place of Man and Nature. *By Dennis Brokaw and Wesley Marx. E. P. Dutton and Co. 145 pp. $20.*

A beautiful book, text by Wesley Marx, handsome photographs by Dennis Brokaw. With the aid of this book one can visualize what is still, despite numerous depredations, one of the most beautiful shorelines in the world. Wesley Marx, who has written for *The Nation,* has made himself an expert on the ecology of the shoreline. A member of a state environmental task force, he also serves as consultant to the South Coast Regional Coastline Commission which is trying valiantly to keep the high-rise vandals well back from the shore.

THE GODS. *By Alain. Translated with a foreword by Richard Pevear. New Directions. 186 pp. $8.95. Paper $3.95.*

Alain (1868-1952) is the pen name of the French philosopher and journalist Emile-Auguste Chartier, political radical, professed freethinker, ethical materialist, regarded by André Maurois as among the greatest men of our time. It is impossible in a brief comment to describe the extraordinary quality of these "notes" which carry such diverse captions as "Labor," "Fear," "Bourgeoisie" (which compresses in 4 pages a wealth of insights), "Games," "The Truth of Fairy Tales," "Caesar" and "The Devil." One of those rare books: an ideal bedside volume to be read, an essay or two at a time, on those nights when nothing else seems worth reading.

BUILDING WITH NATURE: Roots

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of the San Francisco Bay Region Tradition. *By Leslie M. Freudenheim and Elizabeth Sussman. Peregrine Smith Inc. Photographs. 110 pp. $12.95.*

In the years between 1876 and 1910 a group of creative men and women in the San Francisco Bay Area sought to achieve a style of architectural expression appropriate to the region. The group included, among others, Joseph Worcester and Bernard Maybeck. They bequeathed to the state one of its finest legacies: an indigenous architecture. Architecture aside, the story of the Rev. Joseph Worcester—Swedenborgian minister and architectural enthusiast—who moved to California from New England, is of great inherent interest. A splendid volume. □

DANCE

NANCY GOLDNER

Nora Kaye, Antony Tudor, Hugh Laing and Lucia Chase re-creating their original parts in a snippet from Tudor's *Pillar of Fire*; Laing again, in the prologue to Tudor's *Romeo and Juliet*; Agnes de Mille in her own *Three Virgins and a Devil*; André Eglevsky and Igor Youskevitch done up in cavalier duds to partner Cynthia Gregory in the "Rose Adagio" from *Sleeping Beauty*—these are names and events to make nostalgia-philes swoon. For myself, who saw some of these Great Moments in Ballet at too young an age to remember clearly now, their cameo-length replay during American Ballet Theatre's 35th birthday party on January 11 could merely sharpen my curiosity about an era just out of reach. Other parts of the gala program were less laden with history and sentiment but as much fun and more instructive. The duets of Natalia Makarova and Ivan Nagy confirmed that they are among the most *simpático* couples on the stage today; they even managed to transform a junky Bolshoi Highlights stunt, *Spring Waters*, into a believable ode to joy. In her debut in a high-classical *pas de deux*, from *The Nutcracker* after Ivanov, Marianna Tcherkassky proclaimed her right to be counted among Ballet Theatre's principals. Gelsey Kirkland, by literally rolling her feet onto and off *pointe* in a series of quick *relevés*, the usual hop being replaced by the sinuous curl and uncurl of an elephant's trunk, proved in the *Corsaire pas de deux* that the dancer's soul isn't in the eyes or heart. It's in the muscles, in technique.

Yet everyone and everything were swept aside when Erik Bruhn retired from retirement to do a good-sized excerpt from Birgit Cullberg's *Miss Julie*. It has been said that Antony Tudor is the only ballet choreographer who gives dancers phrases with which to delineate character. Whatever the worth of that argument (not much, for it assumes that most choreographers want to create characters), it is clear that Bruhn does not need Tudor to effect a fusion of mind and body, acting and dancing. To put it another way, he can make Cullberg look like a good disciple of Tudor. As Jean the butler, Bruhn's legs snapped in the air, his torso cracked in a bow toward Julie, but turned lazy with the cook; his pirouettes were ferocious and impatient, an effect he brought across, I suspect, by over-spotting. Spotting is a technical trick whereby the dancer, to prevent dizziness and increase speed, concentrates on one point in space while turning. Bruhn seems to whip his head around to that spot with more vigor when doing a Jean turn than, say, an Albrecht turn. And, behold, there's the character in the step.

In a monograph for *Dance Perspectives*, Bruhn has written about this dancing-acting fusion, which he calls "beyond technique." Seeing him in action once again during the gala, I began to doubt the accuracy of this wording. The difference between Bruhn and others, I think, is that, instead of going beyond technique, Bruhn goes deeper *into* it. Through purely physical refinements, he discovers that any movement can have many colorations. But it is not only the depth of these refinements that places Bruhn above his colleagues; it is also his willingness to deal with refinements in technique instead of persona. In *Miss Julie*, Bruhn was first a dancer, second, Jean and third, Bruhn. Everyone in the audience knew that his decision to dance again was a great event, but he restricted a truly historic and personal occasion to a dance occasion—no more and no less.

The Bruhnlessness of Bruhn bespeaks an integrity that does not come easily to globe-trotting stars. For any dancer working today, he must surely be a mirror in which one may examine one's own conscience. At present, American Ballet Theatre has plenty of stars, but no mirror. With some exceptions (Ivan Nagy and Gelsey Kirkland come immediately to mind), the leads at ABT have been intent on turning dance events into historic and/or personal occasions whenever the ballet gives them an inch —in the full-length stories, in the classical *pas de deux*, generally in those ballets from which the specter of the choreographer can be most easily banished. Grandstand plays for the great moment do not exactly destroy what beauty or excitement there is in the dancing, but the pleasure of watching it diminishes. Fernando Bujones' technical skills are unsurpassed, but he's pompous. Natalia Makarova is a definitive Giselle and sylph in *Les Sylphides*, but in the interest of lyricism the conductor must slow down in mid-phrase for the "lyric number." Several ballerinas and would-be's are in the habit of mishmashing musical phrasing so that every decibel of applause can be squeezed from a balance. The audience can be counted on to sigh over the great leap, the great balance, the great curtain call, etc., etc., and why shouldn't it? Because there is a price—a too-cozy relationship between those on the stage and those in the seats. The proscenium arch is destroyed.

Proscenium arches also dwell in the structures of the old narrative ballets, and in *Coppélia* and *Giselle* these too have rotted. (*La Sylphide* and *La Fille Mal Gardée* still have shape, though the pace of the former is limp and the patches of dance in the latter insipid.) The function of these structural arches

SOME LINES FOR A CATHEDRAL BELL PAST MIDNIGHT

Looking up through firs
You almost
See
That one o'clock
Bell tone

Roll out in orbital rings
Like the years
Telling the thick
And thin
Of a hundred winters
In the oak
Stump grooves.

From the thready brass of its
Collapse
A crow might gather
Glitter enough
To gird
Its nest

And I, make a finger ring
Of what little
This hour of my life
Has foretold.

Thomas Johnson

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is to separate out the dancing from the storytelling, so that each kind of action can make its fullest impact. It is understood that variations are more important than atmosphere and that certain questions of logic are illogical to the 19th-century choreographer, such as, how can Giselle suffer from a weak heart yet dance her solos full out? Realism is the thing now. The ensemble has been told, or so it looks, to mill with feeling and comment on the action in Greek-chorus style. The leads, in a desire to convey character and connect with the milieu, underdance their variations, as though brilliant clarity and sylphlike personality were incompatible. Overdancing or underdancing—both lift the soloists out of the ballet and into the arena of personal statement. It's they, not Bruhn, who go beyond technique.

It is ironic that Makarova and Baryshnikov have gone the most haywire this season, for their Kirov backgrounds presumably offer the same moral underpinnings as does Bruhn's Danish training. Either the Kirov's no-nonsense approach to performance is not what it is cracked up to be, or the Russians are correct—the West corrupts. Baryshnikov's improvisations and his hamming and undermining of Kirkland in *Coppélia* have already been reported here, but the worst was yet to come in a *La Fille Mal Gardée* with Makarova. Never, I would guess, has there been such outrageous mugging or such disregard for the texture of a ballet. They trampled all over its essential innocence. Their few moments of dancing were exquisite, but a single full-fledged dance passage cannot redeem an almost full-length ballet. When Kirkland encountered Baryshnikov in *La Fille*, it was happily Kirkland who set the tone: no hurling props around the stage, no Bert Lahr grimaces, and every comic point was made. With such a gentle and adoring partner, Baryshnikov could not act the buffoon; but instead of pushing for hilarity he pushed for elevation and the "Baryshnikov specials." Pushing means distortion—of the musical line, the choreographic line, and sometimes simply the dancer's own line. These same distortions occurred in Ashton's *Les Patineurs*. The Boy in Green is a whiz-kid loner who sometimes overreaches; even *he* stumbles on the ice. Ashton saw to it that the Boy in Green would emerge the best skater anyway, but Baryshnikov did not trust the role's intrinsic virtuosity. Trying to outdo Ashton as well as the skaters, he was not so much a loner as a sore thumb.

Makarova's miscalculations and indiscretions range the entire field, from the berserk interpretation of the heroine in *La Fille Mal Gardée* to the rather complicated maneuver of deprecating her own wit and the audience's enjoyment of it. She brings all her theatrical know-how into the *Don Quixote pas de deux*, snapping her fan open and closed as her feet delicately prick the floor and playing all the balances and angular "Spanish" poses exactly to the right hilt. Why then does she throw it away with giggles and other gestures that signal, "Aren't I lovably ridiculous? Isn't this dance a gas?" Just posing these questions cheapens her real achievements, not the least of which had been to rescue technical stunts and Russo-Spanish mannerisms from cheapness. The fact that the two Russians are magnificent technicians, and that both can respect choreographers and composers when they so choose, makes their willful attitudes toward performance the more outrageous. Egotism can flourish at Ballet Theatre because it has no choreographers willing to defend the turf of their colleagues, living and dead, and apparently no rehearsal assistants willing to wear the director's "third eye." □

POEM

While we are
worrying about
what color,
the tree
spins the cloth.

Andrew Glaze

MUSIC

DAVID HAMILTON

I wish I could join unreservedly in the chorus of praise for the new production of Mussorgsky's *Boris Godunov* at the Metropolitan Opera. But I cannot do so, nor can I subscribe to all of the dispraise at least implicit in most commentary for the Karol Rathaus edition presented by the Met about two decades ago. From Mussorgsky's two versions of his opera (the seven scenes of 1869 and the nine scenes of 1872, the latter further revised in detail for the 1874 première), conductor Thomas Schippers has compiled a recension that offers some music not used in the earlier production: the exchange between the false Dimitri and the Jesuit Rangoni, for instance. But other striking material heard in 1953 is now omitted, such as the mutterings of the populace that originally rounded off the first scene of the Prologue.

Apart from these particular differences—and the relatively conservative modifications that Rathaus practiced on Mussorgsky's orchestration, hardly comparable to the reworkings of Rimsky-Korsakov or Shostakovich—the two editions have much in common: both are composites, amalgams of the composer's two versions of his dramatic material (drawn from Pushkin, and Karamzin's history of Russia). In an excellent account of the textual problem, published in the Fall 1974 issue of *Musical Newsletter*, Edward R. Reilly characterizes the two versions as follows:

> The first is a highly compressed closed drama, a single dramatic arch with a well-defined beginning, middle, and end. It is clearly built around the rise and fall of Boris, and explores the inner relationship between the Tsar and his people. . . . The second version is more overtly complex, somewhat less tightly organized, and more varied in musical style. Instead of a single main dramatic thread showing the consequences of Boris' drive for power, Mussorgsky weaves together two such threads, the one as before showing Boris' rise and fall, the other tracing the rise of the False Dimitry to the point where, like Boris before him, he has ostensibly achieved his goal. At the same time, however, Mussorgsky also shows Grigory [i.e., the false Dimitri] succumbing to his own inner weakness: physical passion. . . .

The shift was made, not merely by adding the act in Poland, showing Dimitri ensnared by Marina and the Jesuit, but by the addition of a final episode showing Dimitri receiving the acclaim of the populace: the Kromy Forest scene, incorporating the character of the Simpleton, previously used in the scene before St. Basil's Cathedral. This latter now became redundant, and did not form part of the 1873 version. Even the much maligned Rimsky-Korsakov realized that these two scenes were incompatible; the splendid *coup de théâtre* of ending the opera with the Simpleton's lament for Russia's plight becomes merely a *coup de trop* when it has been anticipated note for note within the preceding half hour. Yet both Rathaus and Schippers have given us both scenes, and the same incredible solecism is perpetrated in many performances of Rimsky's edition (Ippolitov-Ivanov made a "Rimsky orchestration" of the scene).

Granted that the scene before St. Basil's is powerful and moving—the old proverb about having your cake and eating it still applies. If St. Basil's, then the Boris-oriented first version; if Kromy Forest, then the second version—which in any case is more than sufficiently long without duplicating the Simpleton! In

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short—for it also makes substantial and sometimes damaging cuts elswehere—the new Met edition is not significantly better (or worse) than most other non-Rimsky versions presented in that house and elsewhere since the war. (As often, the notable exception has been Boston's Sarah Caldwell, who presented Mussorgsky's two versions as independent presentations in successive years—thus giving Bostonians all the cake without indigestion.)

Such matters aside—and *Boris* has survived their being repeatedly put aside for a century—the Met performances are surely worth hearing. You won't hear everything that's performed, actually, for Schippers is less than considerate of his singers, and some of these voices need all the consideration they can get. And only a few fortunates will understand anything, for the opera is sung in Russian—preferable, certainly, to the Italian translation used until the 1940s and perhaps also to the awkward English translation of the 1950s and 1960s, but hardly illuminating to the audience seeking to divine the content of such passages as Pimenn's lengthy narrative or the newly restored material in the Polish act. Of the major performers, only the Finnish bass Martti Talvela (Boris) seemed really comfortable with his words, and although the Russian text is familiar to me from records (the proper place for *Boris* in Russian), often I could not recognize it in the sounds emanating from these American mouths.

Talvela's assumption of the title role was notable for his refusal to assume also the mantle of Chaliapin; he took none of the traditional liberties with the notes, singing solidly if also somewhat stolidly. His physical presence was not often as imposing as his sheer size would seem to allow—a simple matter of physical flexibility, one supposes. With the available material, though, August Everding directed imaginatively and straightforwardly; neither of the common responses to present-day operatic direction—"Gosh, isn't that clever!" or "What the hell did that mean?"—reared their heads. The same compliment might be paid to Ming Cho Lee's handsome settings, which I hope we may see again—perhaps even in productions of one or both of the Real Mussorgsky Versions of *Boris*.

Two recent recitals deserve at least brief mention. Janet Baker, who seemed a few years ago in danger of consolidating herself into an institution, came to Carnegie Hall (January 16) with some fresh material, including a striking, extended Handel cantata, *Lucrezia*, hardly the sort of repertory to enchant the musically unwashed. She put it across, taking the large audience with her into what was, for many of them, *terra incognita*; few singers in her box-office category take the trouble to broaden horizons this way. All evening, the singing was near to perfection, shapely and communicative—songs don't have it any better than when they are sung by Janet Baker.

Maurizio Pollini didn't draw quite such a crowd to the same hall on January 20, but then he has a way to go in celebrity yet. Not far in musicianship, though, and no distance whatsoever in sheer technique. Like Miss Baker, he leaves the beaten path—in this case, the first three groups of Schoenberg piano pieces were offered, and projected with intelligence. The sensational part of Pollini's recital, however, was the selection of encores: Chopin's G minor Ballade and a group of études, in which the superlative technique was simply overshadowed by the musical shapeliness of the performances—the kind of shapeliness that is possible of course, only with such technique. This was the best Chopin playing I've heard in many years. □

TELEVISION

PETER SOURIAN

It is surprising when, during the eleventh weekly segment of his remarkable televisionary creation, *The Ascent of Man* (which began January 7 on nationwide Public TV), the late J. Bronowski looks out from the TV set and says, "I specifically detest Hegel." Surprising because it seems a temperamentally uncharacteristic statement from this dynamic yet appropriately plain-looking tour guide who walks us jauntily through twenty-seven countries, hundreds of centuries and the evolving mind of man—all in thirteen hours.

Bronowski, though firm-minded throughout, has heretofore been gentle with everyone else along the way, including Mongol hordes, conquistadors, grand inquisitors and other nemeses of the growth of humanistic science. He is effectively mild even when, moments later, he hunkers down beside the pond at Auschwitz with an extraordinary kind of casual reverence and quotes Cromwell: "I beseech you, in the bowels of Christ, think it possible you may be mistaken."

Why Hegel, to be so singled out for detestation? Several not entirely satisfying reasons suggest themselves. His absolutism is the most immediately apparent, especially since in this segment, "Knowledge or Certainty," Bronowski and the camera take us to Göttingen and lead us elegantly from Gauss's discovery of the imperfection of knowledge to the modern Göttingen physicist Heisenberg's uncertainty principle. Bronowski redefines the latter as the principle of tolerance, according to which a judgment is inevitably built into every act of cognition, so that no event can be well-described except within a play of tolerance, specific levels of which can actually be measured, as in quantum theory. But there have been other absolutists besides Hegel and, according to Heine, more absolute ones.

Bronowski's detestation is serious and I think it stems especially from two of Hegel's specific acts which strike at the heart and soul of what Bronowski himself is all about. The first act was Hegel's acrimonious attack on the natural philosophers for the simple reason that not one reputable scientific contemporary could agree with his assertive system of nature—an attack which, sustained by later Hegelians, effectively promoted a split between science and philosophy. The second act was one of his last pronouncements: outraged by the revolution of 1830, he stated that philosophy was "only for the few."

Now for Bronowski the most crucial tasks at present are precisely the unification of knowledge and the democratization of knowledge. His experience as bombing statistician and then as writer of the British report on "The Effects of the Atomic Bombs at Hiroshima and Nagasaki," led him to the conviction that the "aristocracy of intellect could destroy civilization." For him knowledge "must sit in the homes and heads of people with no ambition to control others, and not up in the isolated seats of power," a belief whose important premises were perfectly understood by people such as Goebbels, who made a manipulative science of the selective withholding and dissemination of information. In a more recent context, David Halberstam's *The Best and the Brightest* explores the question as it relates to U.S. involvement in Vietnam.

The Ascent of Man is a culminating expression for Bronowski, as much because it is mass-media TV as for any aspect of its content, which is not especially new. To afford the possibility of such knowledge to everyone, *before* they have developed a taste for it (indeed the major purpose here is to whet the ingenuous appetite) would certainly require an aggressive medium, both be-

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cause of and despite the fact that its mass-object may tend toward passivity.

Television would seem to be a unifying medium as well, in the sense that it so easily brings so much together through technology—which incidentally and typically Bronowski refuses to distinguish from science (*vide* segment two on agricultural technology and segment eight on the Industrial Revolution). As words and pictures, music too, come together, so do sciences and arts, all further united in the personality of the tour guide himself, who was mathematician, biologist, historian, philosopher and, perhaps most relevant of all, poet, since it is the poetical vision which sees the world in a grain of sand.

To take but two examples of how Bronowski and his BBC producers Adrian Malone and Dick Gilling made beautiful use of television's technological possibilities: the first segment traces man's origins with X-rays, filmograph, infrared, and follows with satellite camera man's movements around the earth before and after the Ice Age; in the concluding segment we stroll out of Bronowski's California house, gaze at the ocean, travel within a second to Easter Island with Bronowski himself, and a minute later return to his living room where we examine the three-dimensional model of a human brain while discussing Leo Szilard's attempt to warn statesmen of the dangers of the nuclear era. All of this to meaningful effect.

In the second segment we actually travel with a present-day nomadic tribe, and then stand with Bronowski on the ruins of Jericho (which he asserts to be the oldest city in the world), as he holds hybrid wheat in his hand and, against background music, speaks of its importance with an excitement in his voice that is itself a telling part of the illustration. And so on, through the architecture of Machu Picchu and Reims, Pythagorean geometry on location at the island of Samos, no less—in the third and fifth segments—and from there to Galileo, Newton and Einstein, followed by evolution in Brazil, genetics, DNA. . . .

Well, O.K. But is *The Ascent of Man* a voyage, or only a tour? Or is it a trip for Bronowski himself who, like many wonderful teachers, is something of a ham? Duffers like myself had history of science courses in college, often taught by cheerfully willing and able men, and most of us came out of them very little the wiser. But we knew it, and shrugged sheepishly. How many minds can perceive knowledge in any meaningful way as a unified whole, especially as it becomes more and more specialized? Even Werner Heisenberg himself, a Nobel Prize winner, had to travel quite a road before he would say, "I am now convinced that the study of theoretical physics is actually the study of philosophy," which is a long distance from the split Hegel fostered in pique. Of course Bronowski's point is that, having traveled the road, Heisenberg was brought to the point where, for example, moral responsibility and "science" might be unsentimentally perceived as inseparable.

One of the problems with the mass-media promotion of serious knowledge is that the tour guide must make a great many downright assertions if he's to travel at a speed necessary to keep the duffers from switching channels. And the tourist must take these assertions on faith, something that Bronowski was rather against. It was at Göttingen again, as Bronowski ironically points out in perhaps the most striking of his segments (eleventh), that even as Heisenberg was developing his uncertainty principle, a collection of skulls was being used by pseudo-savants to assert racial theory to masses of not necessarily stupid or wicked people. Is the answer then to set up a Manichean struggle between good asserters like Bronowski and bad asserters like Alfred Rosenberg? Bronowski does warn us to retain our own critical judgment as we travel with him, in the sense that each of his segments is introduced with the subhead: "A Personal View." In my opinion this is not only a warning but a just and proud description, for Bronowski's vision is poetical; interestingly, it is his artist's nature which permits him to serve science so well.

Another point. To popularize science successfully, to intrigue young people especially, to inveigle some of them into pursuing a course that will prove arduous, you must give them the romance of it. One's first teacher should do this; the "serious" fellows will come later. The other day a no-nonsense student in the philosophy class of a colleague of mine—it was a seminar on Wittgenstein—made a slighting remark about Will Durant, and was told by his no-nonsense professor that the professor himself would be up to something quite different today if it hadn't been for Durant's popular *Story of Philosophy*.

Bronowski, with all the rest of what he had to offer, was a TV man, and this was partly because of his unprepossessing appearance. Each developing medium develops its own mystique. The newspapers had the *Extra-a!* The movies had glamour; you gazed, your mouth full of popcorn and your head empty, up at the giant screen, up at the giant glamourpusses. On television, on the other hand, the "stars" are suddenly all character actors.

The television mystique has plainness to it, maybe even democracy. (Nixon preferred radio.) With the democracies of the past there was always an underclass, uneducated, exploited. The idea of a democracy without an underclass, which is what we have been purveying for some time now, implies mass education. Maybe it doesn't have to be such a great education, merely serviceable.

TV came along just about the time when some forward-looking types were suggesting that we should be realistic and accept the probability that democracy is more than ever an unfeasible ideal, especially citing the terrible problems of communication between ever vaster numbers of people of widely discrepant backgrounds, knowing ever less about ever more complex issues. Granted, TV is no one-room schoolhouse or quiet laboratory, and it's no town meeting; but as long as it's not too censored, it's better than nothing to help pull people a little together.

J. Bronowski was a plain-looking man, looking *at* you, a plain-looking fellow for a rather plain medium, as it turns out. You watch him on the little set and realize that he liked his changes of clothing and his spiffy house overlooking the Pacific, liked zipping around the world on camera. But he looks also as if he had it in proportion. All very human, and so we, viewers with our own eyes and ears, tend pretty much to trust his assertions—not because he's shouting *Extra-a!* and not because he's a glamourpuss but because we've been getting a good look at him for thirteen hours over 200 Public TV channels. He's not up on the giant screen, nor way up on a podium at Nuremberg. He's in *our* living room, our guest as well as our guide. □

PADDLE SONG

Tangled in a net off our village shore,
Seals emerge from somewhere we have never been.
Bobbing like corks beside our canoe,
What could such sea-deepened eyes,
Be telling us, of what storm, what loss,
We failed to name on thundering fool's day?

Duane Niatum

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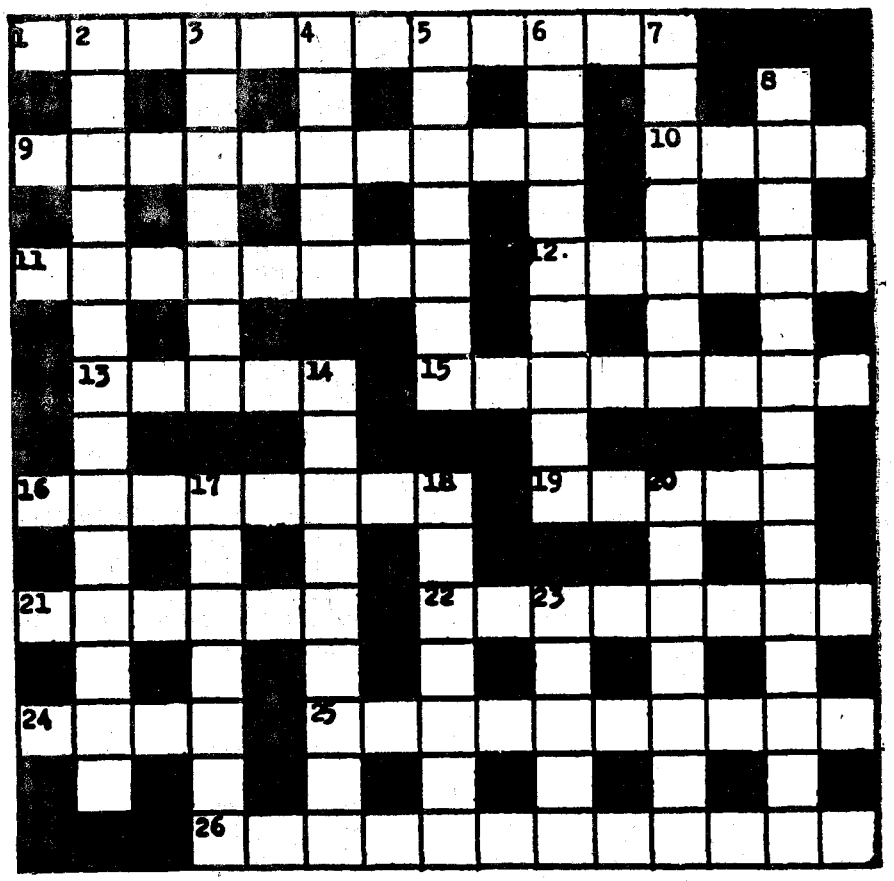
Crossword Puzzle No. 1571

FRANK W. LEWIS



ACROSS

1 If you do, does it prove a stort of strain in traveling? (6,6)
9 and 10 In which one feels like pointing out something, but it may imply an ordinary statement. (10,4)
11 The type of last that puts the first in folds. (5,3)
12 Kind of ten-leg variety. (6)
13 Part of the emigre beatniks might be noticed in dives. (5)
15 Standstill caused by a bad deal in the stevedore's domain. (8)
16 Not much different from a big paper, but a piece from one would be impossible without a blow-up. (8)
19 In Omaha, it is much further south. (5)
21 The state of Dostoevski's character? (6)
22 Sinks to a lower level, representing other than regular teams. (8)
24 Return a tennis stroke with a good catch made with it, perhaps. (4)
25 A soldier in the war between two small states follows the end of the environmental description. (10)
26 Was its rubber worth a fortune, possibly? (8,4)

DOWN

2 Two things Alpine cattle do in searching for grass? (4,4,3,3)
3 It is possibly vain to have summer in Paris, showing a lack of sophistication.
4 No good being out of England for the beast! (5)
5 It could involve adoring another group's deity, perhaps. (7)
6 Many of us might not understand the character of the Chinese! (9)
7 Seedy, but with possibilities for future development. (7)
8 Certainly not a plot that only one family is connected with. (10,4)
14 A strange "Emmy" shape nobody would want. (9)
17 A paid informer has a following in proportion. (3,4)
18 The opener might expect one to do so if possible. (7)
20 Pertaining to the beginning of the letter. (7)
23 Shock point, perhaps, when exhausted. (5)

SOLUTION TO PUZZLE NO. 1570

ACROSS: 1 Earn one's living; 9 Undress; 10 Machete; 11 Viands; 12 Consoled; 15 Codes; 17 Laces; 19 Curates; 21 Relaxing 23 Alkali; 25 Vibrant; 26 Butting; 27 Mass production. DOWN: 1 Equivocal; 2 Radiant; 3 Overdress; 4 Erse; 5 Lampooners; 6 Vices; 7 Needled; 8 Mend; 13 Fascinator; 15 Catalytic; 16 and 14 Singing in the Rain; 18 Culebra; 20 Swahili; 21 Rave; 22 X-rays; 24 Ibid.

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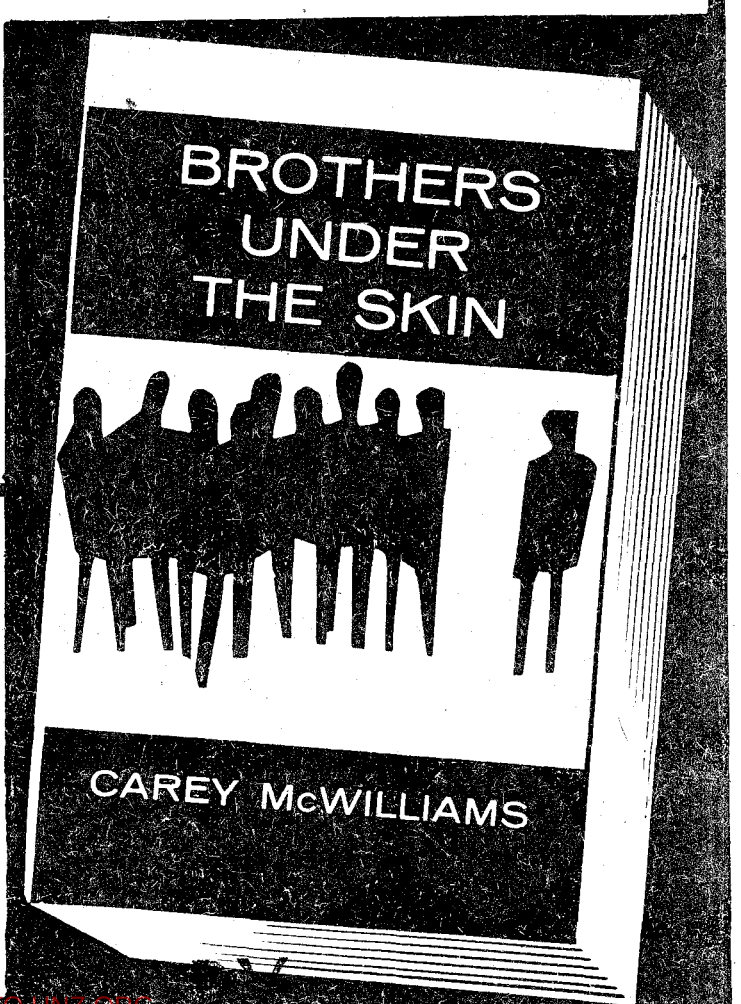

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